App. F. IX-4

*Previous References*

L.R.-208-34-4.

1937

File No. 37-36

Serial Nos. 1

*Letter · References.*

Memorandum

Legs 6-41-1

A Collection

# GENERAL AND REVENUE SECRETARIAT.

*Serial No:*

A

Part ~~B~~ for February 1937

## SUBJECT.

A Regulation to make provision for setting up of Local Councils Boards in Mysore. — Rules

Govt P 4986 dt 15-2-37

Draft Compiled.

WD 0418—GPB—22,500—23-8-36

Notification in above Regn.

R Srinivasa

19/5/37

5961 4/34
P

General and Revenue Secretariat

File No. Finance 37 of 1936

[App. F. III–2

Serial No.

Report of ~~the~~ the Relief Committee.

2) A copy of the report is enclosed herewith for ~~the~~ information & action. ~~The~~ Attention is invited to paras 4 & 5 of the report

Note 21.1.35
MBK 21/1/35

3) Of the recommendations of the Committee Nos 4, 7 & 8 call for legislation. There is a draft Bill under consideration the "Money Lenders Bill" which will meet the recommendations 7 & 8. The further consideration of the Bill had been stayed pending the report of the Committee. That Bill will be submitted separately for orders.

4) Regarding recommendation No. 4 debt conciliation, there is as yet no move towards legislation. Bills & proposals in other Provinces & States will be collected & perhaps a draft Bill drawn up if ~~legislation~~ ~~for the Province~~ ~~is considered necessary~~ the Govt accepts the recommendation of the Committee & frame rules for working of debt Conciliation.

(Sd) ~~Secretary~~ Member

16/4/35

Noted Contn. Sheet.

GENERAL SECRETARIAT
13 APR.

The [illegible] recommendations of the Committee is set out in Para 32 of the Report, regarding Debt Conciliation. There is no doubt that it is desirable to try it here, but it seems to me that it must be always ready to start work on a purely voluntary basis. It must not be forgotten that even we are touching on the rights of property on which the fabric of Society is based. After all the village Sowcar is playing a useful role in rural economy and he has a right to get back his full money with a reasonable interest on it. And he will not easily be ready to agree to any Composition if it is clear to him that his debtor is not able to pay him in full. It may be provided that when the debtor applies to the Court it should be open to the Creditor to say whether he would agree to a conciliation Board being appointed or not. If he agrees, it should not be open to him to recede

Serial No.

afterwards

(6) I am inclined to agree generally with the remarks of Mr Imam in his Note (Pages 30.31. of the Report, and think that ~~in~~ in a step of this sort we will do well to go slow.

7) The views of the Repres Assembly and some prominent legal gentlemen may I think be elicited with advantage. There is already a cry that the Agri. Relief Act has done more harm than good to the ryot by affecting his credit. If this measure adds to that cry the ryot will have reason to pray to be saved from his friends

Ltm
16.4.35

I Number

II Number

NOTE—Contn. Sheet.

WD 01955—GPB—22,500—12-6-34

P. 5961

File No. / of 193 General and Revenue Secretariat

OFFICE OF THE FIRST MEMBER OF COUNCIL
22 APR. 1935
7633

8) I should like Wheare to communicate to R.C. Mackay about the scheme - would you kindly arrange for comments of the departments to be 22/4/35 Hw 23/4

9) Issue D.O. to both Secs

D.O. No. R 5326 - 5 of 23.4.35 23/4/35 Rec Com & Reg Secs

States that the Secretaries will call to discuss the subject with them.

10) This was discussed with the Rec Com & the Reg & C.S. on the 25th the Judges & the Secs Law Dept being also present.

11) It was generally agreed that as a scheme of debt conciliation may be introduced as an Experiment limited to areas (two areas to start with)

(2) The Committee proposal is to have conciliation boards ad hoc; in each case, appointed by the Court. This would lead to diversity of procedure & general principles - It is necessary that in the settlement of cases some general principles should be uniformly followed that

Serial No.

requires a permanent board for each local area to deal with all the cases arising in that area - the conciliation court should moreover be in a position to negotiate loans from the L. Sr. Bank (or cooperative society), as the creditor will expect ~~expect~~ payment in cash from the reduced amount of the debt - all this requires that the chairman of the court should be a paid official (of the status of an Advocate). There should be 2 or more additional members of the Court who should be appointed by the Govt.

(3) The court should have power to secure attendance of witnesses &

(4) The court's decision should be issued as a decree binding on the debtor & the creditor provided the latter consent where there are several creditors the decree will be binding only if the settlement is agreed by creditors holding not less than 50% of the debts are owing to them are secured & unsecured debts the further condition should be satisfied that creditors to whom not less than 50% of the secured debts are owing agree to the settlement.

NOTE—Contn. Sheet.

WD 01955—GPB—22,500—12-6-34

(5) When a settlement is arranged the Board will attempt to arrange payment by the creditors of the amounts of their debts as secured through the Land Mortgage Bank or a Co-operative Credit Society where this is not possible the amount due on the settlement will be secured by the D.C. as an advance of Land Revenue. When secured by the D.C. the agreement (as regards time & manner of payment of reduced debt) will cease to subsist and the creditors will have their usual remedies through the Civil Court (by way of Execution proceedings).

(6) No Court fees will be levied, but Stamp duty will be levied as for applications.

(7) The Conciliation Board will not deal with cases where the amount of the debt exceeds Rs 10000.

(8) In cases where the conciliated debts are found exceeding the assets, the Conciliation Board may also recommend Insolvency Court

It is suggested that if the above proposals are accepted, it may be included in the orders on the Committees' report as the manner in which the Govt. have provisionally agreed to.

P 5961

2303
2964
1301

e 2303

[App. F. III—2

General and Revenue Secretariat | File No. | of 193

Serial No.

DEWAN'S OFFICE
9 MAY 1935
No. 6548

OFFICE OF THE FIRST MEMBER OF COUNCIL
29 APR. 1935
No. 2879

SECOND MEMBER OF COUNCIL
30 APR. 1935
No. 6659

further consideration and Examination of details in consultation with the High Court —
Please submit to Second Member by 29/4/35
Dewan

I Member
Dewan

Hm
29.4.35

13) The Subject is a complicated & controversial one & I am not sure if it will be advisable to include the details of the Scheme in the proposed order on Agr. Relief report. Perhaps we may say there that the matter is receiving separate consideration

Hm 29/4

14) As regards the details, the proposal to obtain money from L.M.S. banks & Co-op^e Societies & Sahukars for credit will lead to practical difficulties in working the Scheme — Perhaps the views of the R.A may be ascertained. There are some other prosperous money lenders which may be added to these proposals (as in the bill already prepared)

15) If the Dewan approves the Question may be discussed at a meeting of C^l

11

16) [illegible]

Hm 9-5-35

[illegible] 14/3/35

NOTE—Contn. Sheet.

A Vide P.W.D. in linked file & para 6 of the memorandum of draft. The Report was received [illegible]'s letter dt 1-3-35 Hm

PWD 01955—GPB—22,500—12-6-34

8 4

(For Disposal at a Meeting) No. C. 303

of 1934-35

# GENERAL AND REVENUE SECRETARIAT.

**Council Matter.**

---

SUBJECT

(clause XII of the schedu

Recommendations of the Agriculturists' Relief Committee in regard to Debt conciliation.

CIRCULATED TO THE MEMBERS OF COUNCIL.

By Order,

R. Rangarao

15th May 1935. *Chief Secretary to Government.*

---

**First Member of Council.** (Seen)

**Second Member of Council.** (Seen)

7474
24/5-

2365
2954
1207

SUBJECT. (4) 99

Recommendation of the Agriculturists' Relief Committee in regard to Debt conciliation.

---

OPINION OF THE COUNCIL.

(18) Le file may be sent to the (1st member in further exam of certain points.
RR
21/5/35

Genl Secy, with compts
- I Member) Hm 21/5/35

(19) Genl Secy. Just. Reaching up until the C.P. & Punjab Acts urgent
by 21/5

20) When the subject was discussed at the CL meeting a doubt was expressed as to whether the application for conciliation decree should be made to the Court or direct to the Board - under the C.P. & the Punjab Acts the application is to be made to the Bd & not to the Court. This is precisely what is contemplated in the modified scheme suggested in my minute
by 24/5/35

Second Member
Sd/ Rahman

(21) The Central Provinces Act is generally adopted in the Punjab - & the scheme has been adopted with the addition of the Punjab Land Mortgage Banks & appears as outlined in the first members minute above
Sd/ 24/5

22) Hm 25-5-35
(1st member) Hm 27/5.

Secy 28/5/35

28566/835 — 2854 — LD 10

General and Revenue Secretariat | File No. | of 193 | [App. F. III—2

Serial No.

4) ~~Secret~~ Views have been passed in the proposals of the Agriculture Relief Committee on the question of debt redemption. (Vide para 14 of P.D. & I. 30-10-35. placed below) further action in her be taken in the Protection Branch. ~~xx~~

Protection Branch) 9/11/35

8/4/35

Vide last sentence in para 14 of the note.

3) Re High Court may be consulted Please put up draft

9/11/35

2) Draft Subd

11/11

11/11/35

Issued vide P.D. & I. 16/4

Secy A. 29/11/35

1 GEN

NOTE—Contn. Sheet.

WD 01955—GPB—22,500—12-6-34

Re- Debt Conciliation Boards

11 2056

11

File No. of 193

General and Revenue Secretariat

From

The Registrar, High Court,

Dy Dis 35-36 Dy 12-2-36.

Furnishes the opinions and suggestions of the High Court in regard to the Scheme of Debt Conciliation Boards

2) The High Court are strongly of opinion that the proposed Conciliation Boards should in no way form part of the Judicial Dept and in no sense be Courts subject to the superintendence or revisional powers of the High Court. The possible advantages of such a system have been discussed in para 2 of the D.O.D.

3) They are also of opinion that the work of the Boards can be best done with the help of and in touch with the local executive officers of the Revenue Dept. The Revenue Com^r may perhaps be consulted on this point in the first instance.

Submitted with a draft

CSR 26/2 2/3

4) ~~This arrange does not seek to take the advantages~~ It is for orders as to whether further action may be taken in the Revenue Branch at this Stage

Asst 2/3/36

Re. the Debt Conciliation Boards

12

| General and Revenue Secretariat | File No. | of 193 | [App. F. III—2 |
|---|---|---|---|

Serial No.

(30) The main suggestions of the High Court are as follows:—

1) The Conciliation Boards should in no sense be Courts

2) They should be subject to the Control & supervision of the A.C.J. & R.C.

3) If necessary, judicial officers of experience might be selected as chairmen of the experimental Boards

4) Courts should not entertain suits for recovery of debts which are the subject matter before Boards

5) limitation should be saved of period of proceedings before Boards

6) chairmen of Board to certify fitness for execution of their orders

7) Boards should not exercise insolvency jurisdiction.

(31) If approved a draft Bill on the lines of the C.P. Act embodying the above suggestions of the High Court will be put up for consideration.

Chief Secretary)
2nd Member)
1st Member)

OFFICE OF THE FIRST MEMBER (J. & L.)
4 MAR. 1936
No. 6373.

6e 2/3/36

(32) 3/3

6e 4/3

(33) Secy 8/3/36.

(34) JOT 2/3

WD 03594—GPB—30,000—13-7-35

NOTE—Contn. Sheet

OFFICE OF THE SECOND MEMBER (LABOUR)
1936
6749

Returned to Pol & BS.
27/4/36.

Re. the establishment of Debt Conciliation Boards

5079

13 13
File No. of 193

General and Revenue Secretariat

This may be sent to the Typing Section to kindly furnish three typed copies of the Bill placed below in half margin

The file was on the 4th May Co-op Committee x x x Now 4-5 & 27/4 Legislative Section here 27/4/36

(1) A typed copy of the bill on the lines of the C.P. Act is submitted herewith for kind perusal.

TYPING SECTION 28. APR. 1936 GEN'L & REVENUE

(2) With reference to para 30 of the notes, it is submitted that Section 16 of the Bill appears to satisfy the conditions enumerated in parts (1) & (2) under para 30.

points 2 & 3 appear to the Administrative matters and as such it is for orders as to whether these points have to be included in the Bill

point (5) appears to come under the purview of Sec 23 of the Bill

With regard to point (7), it is submitted that a sub Section (3) has been added under Sec 11

Maybe finished in the Legislative Dept 29/4/36

(3) A draft Bill for the establishment of Debt Conciliation Boards has been put up with Statement

Serial No.

g Objects & Reasons on the basis g the C.P.C
Madras Act Madras has followed the C.P. Act
in most provisions. There are few departures
and also a few additions on details g procedure
in the Madras Act - probably on the experience
gained in the working g the C.P. Act.

39) The main differences are as follows:—

(1) Sec 3 Madras provides for a chairman & 2 men
for a Board, while C.P provides for a maximum
g 9 members (Madras is adopted in the Bill)

(2) C.P fixes a maximum amount g the debts
g a debtor who could resort to a Board at
Rs 25000. If debts are above this, he has to
go to a court. Madras fixes no maximum
limit (Madras is followed in the Bill)
under the C.P. Act

3 The Board accepts & registers an agreement
between creditors & debtor if ~~not less than 40%~~
~~of the~~ Creditors to whom not less than
40% g the value g the debts is owing,
agree. In Madras an agreement is
registered if not less than 50% g the debts
owing agree. (Madras is followed in the Bill
in accordance with the decision at
para 11 g the Notes above)

In the Madras Act, a ~~wrong~~ qualification prescribed for a chairman is that he should be or should have held office not lower than a Sub Judge or a Deputy Collector. In the Bill this qualification is not inserted. The Govt may appoint any person they deem fit (Official or non-official)

(2)..



WD 03594—GPB—30,000—13-7-35

15 1/2

5079

File No. of 193 General and Revenue Secretariat

40) The High Court is necessary agreeable to the proposals. Insolvency jurisdiction has not been conferred on the Board. The High Court is against it. No such jurisdiction is conferred in the C. Pro Matters Act

Chief Secretary) 6/5/36.

4 MAY 1936
Council Matters

1 Member
Dewan)

5-5-36

5 MAY 1936
6143

Member Secretariat
also I have had a talk with him

SP 14/5

41) The proposals seem generally suitable may be approved. + Final note is also put up

2nd Member
+ Dewan) SP

14/5/36.

DEPUTY TYPE
SECRETARY OF COUNCIL
15 MAY 1936
8839

DEWAN'S OFFICE
15 MAY 1936
No. 7007

4) Minister with S.N. also
Dewan) Ce 19/5/36

DEWAN'S OFFICE
20 MAY 1936
No. 7109

**Final Note by the First Member of Council.**

40)

***Subject.***—

Bill to provide for the setting up of Debt Conciliation Boards.

In passing orders on the report of the Committee presided over by Mr. N. Madhava Rao in regard to measures of relief to raiyats from the effects of economic depression, Government agreed with the Committee that a scheme of debt conciliation may be introduced as an experimental measure in a few selected areas. The High Court was consulted and their suggestions on a few points have been embodied in the draft Bill prepared to implement the Government Order on the lines of the Central Provinces and Madras Acts. The Scheme will be on a voluntary basis.

The measure will apply to agriculturists who earn their living mainly by agriculture and whose debts exceed Rs.100. Debt Conciliation Boards consisting of a Chairman and two members may be appointed for a District or part of a District and any creditor or debtor may apply to it for intercession. The Board will persuade the parties to come to an agreement and where creditors to whom not less than 50 per cent. of the debts are due and the debtors agree, the settlement will be recorded and registered by the Board and it will have the effect of a decree of a Civil Court. There are provisions in the Bill which act as deterrent to creditors who refuse to co-operate in the settlement.

The proposed measure has been agreed to by the Dewan and the Second Member of Council and I solicit the gracious sanction of His Highness to place the general principles of the Bill before the Representative Assembly at

its June Session and introduce the Bill in the Legislative Council.

Member of Council

Camp Chintamani,
18th May 1936.

*Submitted to His Highness.*

(44) *I submit herewith a Final Note by the* First *Member of Council* ~~on the subject of~~ regarding the Bill to provide for the setting up of Debt Conciliation Boards, *for His Highness' gracious approval.*

Mirza M. Ismail

*Dewan.*

Camp Fernhill,
20th May 1936.

**Record of Cases submitted for the Orders of His Highness the Maharaja.**

## *Subject.*

Bill to provide for the setting up of Debt Conciliation Boards.

C Secy
M.J
21-5-36

45)

## *Order.*

~~KRW~~
21/5/36

Dms.
26.5.36

5079

20



Serial No.

46) Secy L.C.

Please take immediate action, as the rules regarding publication of this Legislative order in the newspapers have already been published in the Gazette of India dated 26-5-36 and the Bill will be introduced in the Legislative Assembly on 26/5/36.

~~D.O. to Secy for issuing the statement of general principles of this Bill~~

~~See Note~~ 47) Secy. for orders if the statement of general principles may be sent to R.A for issue.

~~See~~ 26/5

48) The statement will be placed before the R.A in June & the Bill will be published under Rule 8 for hearing thereafter by the L.C.

(for Member) 26/5

49) 26/5

NOTE.—Contn. Sheet.

WD 03594—GPB—30,000—13-7-35

Serial No.

52) Note relating to the particulars which has been sent to the Local Govt for publication of this for the information of the P.C. so as to fix the time of the hearing so that the publication proof may be got in before hand.

53) Same with a draft

See 25/5

53) Issued NOP 24 & 25/5

53) Proof has been received & compared and sent for orders as it may be necessary to have copies for publication

See 26/5

54) Reports

Under Govt file for order See

55) K. copies with 2 copies of the proof

See 27/5

56) Three copies taken & file put to Prot. Br. W.C.

27/5/36

NOTE—Contn. Sheet.

6017/22/P

Debt conciliation Bill

File No. of 193 General and Revenue Secretariat

(57) The principles of the Bill were accepted (on Hon R.A. by a majority

Subd for orders that the "Bill (which is already published) may be circulated at the ensuing session of the L.C. & referred to Select committee

See Subd 4/6/36 (58) Draft motions may be put up

Cey 6/6/36

(59) The following motions are suggested:—

(a) Motion that the Bill published under Rule 8 of The Rules of business be read in Council.

(b) Motion that the Bill be referred to a Select committee.

Subd for orders.

See 5/6 Chief Secretary (for Member)

6/6

Cey 6/6/36

(60) 1/2 a 6/6

2 L.C. offices See 8/6

Cey 6/6

OFFICE OF THE PRIME MINISTER OF COUNCIL 6 JUNE 1936

CHIEF SECRE... 5 JUNE 19...

Debt Conciliation Bill

Select Committee

23

16 members proposed

~~F. Gradish Gooda.~~

H. B. Gundeppa

P. Subbaramia Chetty

Mr C. Harawadana Rao

~~S. C. Mathrah.~~

K. T. Nagalingam Esqrs

Mr Mahadeva

~~K. Sittampalam~~

K. R. Saravanamuttu Esqrs

Mr Gunasekera Advocate Mr H.R. Pappa Esq

Mr Kumarasamy Mr K.V. Arunachalam

Mr Registrar of Coop: Societies Mr M.J. Ratnam

Mr Kachcheri Clerk Mr T. Kasavan Esqrs

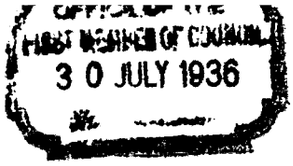
Mr S. Abdul Wajid

1/7/36

May I add the Names of the
Select Cmte also
the Abdul Wajid to the
Select committee?

1-7-36

Serial No.




Members of S.C as verified from the report of the proceedings:—

1st Member
Rao. H. B. Bandappa
" P. Subbaramma Chetty
" C. Kayarvadanam Rao
" K. T. Bhashyam Iyengar
" Mahomed Imam.
" K. R. Srinivasa Iyengar
" A. R. Nagesamara Iyer
" K. V. Anantharaman
" M. G. Neelkanti
" B. T. Kesava Iyengar

(1) The Bill was referred to the select committee now to Subd. for orders as to the date of the meeting

(2) A date may be fixed for the Select Committee meeting
1st Member)

(3) The 1st Member directed that a date may be fixed in the early part of November

(4) Part of Early in Oct



WD 03594—GPB—30,000—13-7-35

55 Members Rdns:-
The Select Committee
Meeting may be fixed for 10th
November - Tuesday - 1 P.M.

60
12/10

RA. H.C. Sec

MS
12/10

WR 15.10

66 The L.C. office may now take necessary
steps WR
13.10

67 Secd. with a draft notice
of the meeting vide
WR
15.10

SC
15/10/36

68 Secd. MOP 2532-41-Ag 17/10
Secd. with a draft of the
Report of the Select Committee
After approval copies will
be sent to the Secretaries
members of the Select Committee
for approval

See
11/11/36. 18 members)

BJ
12.11

69 Affd as revised

SR
12/11

TYPING SECTION, GENL & R SECTT. 15 OCT 1936

OFFICE OF THE FIRST ... PRINTS 12 NOV 1936 No. 2964

3004

Secret Cons. Pol.

General and Revenue Secretariat | File No. | of 193 | [App. F. III—2

Serial No.

1 Sealed. with a draft for marking copies of the report to the members of S.C. who were present

Sec 14/11

Issue WJ 14.11

Issued vide P 3203-11 of 15/11.

TYPING SECTION 14. NOV. 1936 GENL. & REV. SECTT.

2 The reports have been received back from all except Mr. H.B. Gundappa.

Sealed. with a draft reminder

Sec 19/11.

Issue WJ 19.1,

Issued vide P 3330 of 20/11

3 The report has not yet been received back from Mr. H.B. Gundappa

Sealed for orders if the report may be published with his signature along with the dissenting note of Mr. K.R. Srinivasaraghava

H.D

RECEIVED IN THE OFFICE OF THE FIRST ASSISTANT TO THE COMMISSIONER 2 NOV 1936 Pn. 34 s/s

Sec 25/11/36. 4 may be published. 5 may be noted that he has not yet sent his report

6 member.

WJ 25.1

NOTE—Contn. Sheet.

WD 0417—GPB—30,000—8-9-36

7 Yes 26/11 WJ 26/11 WJ 27

Debt Conversion Bill D 140/R.T 3004

File No. of 193 | General and Revenue Secretariat

Serial No.

Typing sections for making 3 copies of the Report of the Select Committee & the dissenting note of Mr. K.R Sennivasagar

See 27/11 Rec d. e. office with 3 copies of the S.C report dissenting note and Bill amended

27. NOV. 1936 GENL & REV. SECTT.

See 30/11/36. Misc

Three copies of the Report with the dissenting note have been taken also two copies of the amended Bill

L.C Sms.

(Prot. B. C.)

30/10/36

No. Sl Conf 9156 of 29/12 from the D.C Batticaloa forwarding a note on Debt Conciliation Bill by Mr. S. Sambasivampillai Advocate.

The note makes suggestion to the proviso added to clause 14 of the Bill by the Select Committee

3764 29



Serial No.

which ~~secures the~~ safeguards the rights of a secured creditor. This addition is on the basis of the provision in the Madras Act. The S. C after due deliberation considered that this proviso should be added.

Submitted for orders

2/1/37 This may be submitted to the Member after his return

2.1.37

No 6, Petn dy 4/1, from D. Sankaranarayana Iyengar and others

Petn. dy 4/1, from the same petitioners

The petitioners urge the deletion of the second proviso to S. 14 added by the Select Committee. This proviso secures to the secured creditors their rights, and their rights are already safeguarded by sub-section (3) of S. 19 and

NOTE—Contn. Sheet.

WD 0417—GPB—30,000—8-9-36

30

# Debt Conciliation Bill

File No. of 193

General and Revenue Secretariat

Serial No.

Sec. This provision only makes it more difficult & clumsy from the point of view of efficiency procedure. The rights of a secured creditor are safeguarded. — This has considered in the Select Committee & this procedure was agreed to the release of HOJ

(2) No formal note of any amendment in regard to this has been received

(3) A number of amendments has been proposed by Mr Siddiqui. A statement is put up showing the clauses of the Bill with the proposed amendments indicated therein. Notes are put up against each amendment.

(4) Sec. 60 of the Bill Indian provinces.

Sec 18/4/37 Submitted with Statement

Sec 20/4 18/4 Speaker

HOJ 21.4

373 – 375

Debt Conciliation Bill

| General and Revenue Secretariat | File No. | of 193 | 31 [App. F. III—2 |
|---|---|---|---|

Serial No.

85) ~~The~~ Name of the amendment brought by Mr Sidhwa was passed ~~The~~ Bill as amended by the S. C. was passed finally with a slight ~~verbal~~ modification viz S. 2 (a) (as proposed by the Finance Member) ~~deleting~~ by substituting the words "or by an agent authorized in writing" for the words "or appear in person."

86) In clause 16 the words ~~the debt was~~ ~~incurred~~ for determining the maximum amount which can be allowed ~~to the~~ viz a certificate of a Debtor to be mentioned

In the Madras Act which is followed I am told mentioned

Sent with a D.O. letter.

87) Agreed

WD

28.1

20 JAN 1937 LEGIT.

NOTE—Contn. Sheet.

WD 0417—GPB—30,000—8-9-36

SC
28/1

3932

# Debt Conciliation Bill

File No. of 193

General and Revenue Secretariat

Serial No.

& Typed D. F. N Sealed

See 20(1) (for members)

Signed Final Note to put up

S. N. put up.

DEWAN)

CHIEF SECRETARY'S OFFICE
N. 3015
1 FEB 193
GOVT. OF MYSORE

**Final Note by the First Member of Council.**

***Subject:—***

Promulgation into law of the Debt Conciliation Bill.

89) On the 21st May 1936, His Highness was graciously pleased to accord sanction to the introduction of the Bill to provide for the setting up of Debt Conciliation Boards. The general principle of the Bill were accepted by the Representative Assembly by a large majority in its Budget Session in June 1936 and the Bill was thereafter introduced into the Legislative Council in the same month. The Select Committee to which the Bill was referred has not made any material change except the addition of a proviso to clause 14 to safeguard the rights of a secured creditor. The Bill, as amended by the Select Committee, was finally passed on the 26th January 1937 in the recent Session of the Legislative Council.

I solicit the gracious sanction of His Highness for promulgating the Bill into law.

T Rajagopal

MEMBER OF COUNCIL.

Bangalore,
2nd February 1937.

Submitted to His Highness.

---

40) I submit herewith a Final Note by the First Member of Council re: Promulgation into law of the Debt Conciliation Bill,

for His Highness' gracious approval.

Mirza M. Ismail

Dewan.

3-2-37

35

Record of Cases submitted for the Orders of His Highness the Maharaja.

## *Subject.*

Promulgation into law of the Debt Conciliation Bill.

C key Mo
7-2-37

MS
8.2.37

278

(11) **Order.**

~~KRW~~
4/2/37

General and Revenue
Secretariat.

NH: 325

SUBJECT :—

Promulgation into law of the Debt Conciliation Bill.

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(*)

31. All urgent or confidential files returned with His Highness' orders may in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at Headquarters and then sent to the Secretariat concerned for the issue of orders.

9/2 Circulated to Members of Council for perusal of His Highness' orders before/after issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

*

*Chief Secretary to Government.*

Through the Secretary to Government,

..... Department.

4690
9/2/37

FIRST MEMBER OF COUNCIL.

8/2

5683
8/2/37

SECOND MEMBER OF COUNCIL.

9/2/37

9/2

10.2

NOTE.—Contn. sheet.

WD 1170—GPB—1,000—24-12-36

Debt conciliation ...



Serial No.

H.G

Orders are solicited in regard to the points raised in para 86 supra as to the date to be mentioned in S. 16 of the Repeal Act

H.H

It is for orders if June 1933 as in Madras may be adopted

SE 10/2/37

Is there any reference in the Select Committee discussions to show why in Madras 1.6.1933 was fixed?

HG 19.2.37

~~The~~ S. 16 of the Madras Act was added as clause 12B in the Council at Consideration stage. The amendment ~~provided~~ suggested was that the amount decreed should not be greater than ~~three~~ times the amount of principal This was considered as too general a rule likely to give rise to difficult situations It was therefore suggested that a day may be fixed the amount due on that

H.V.

NOTE—Contn. Sheet.

WD 0417—GPB—30,000—8-9-36

Legs File No. 7 of 1936. General and Revenue Secretariat

Serial No.

date ... as the basis. e.g. the date on which the Bill was introduced. Thus 1st June 1933 was adopted as the date the Bill was introduced in March 1934 (vide pp. 68-70 & 89-91 of proceedings of Madras L.C. dt: 29-1-1936).

Submitted for orders

See 11/2/37

If approved he may fix 1st June 1938 for purposes of Sec 16. This will be fair both to the creditor & debtor. The Madras Act passed in 1936 has fixed 1st June 1933. (8 months).

[illegible] 11-2

I have submitted this file in regard to the 18 months. He is agreeable to the above date. Please insert & send to the Press

[illegible] 13.2

Submitted with a draft G.O. ordering the publication of the Regn.

See 13/2/37

[illegible] 13-2

G.O No 498 dt 15/2 publishing Regn V of 37

TYPING SECTION 13. FEB. 1937. GENL & REVENUE DEPT

Press one printed copies sent

A.

**Mr. H. HOMBE GOWDA.**—How long is it since these 72 Surveyors were entertained?

**Mr. N. N. AYYANGAR.**—Since 1927.

**Mr. H. HOMBE GOWDA.**—It is said that subsequent to those appointments, 12 graduates were taken by direct recruitment. How many of them are Brahmins?

**Mr. N. N. AYYANGAR.**—Eight.

**Mr. H. HOMBE GOWDA.**—With reference to (*d*), is there no non-Brahmin Surveyor who has put in 5 years' service?

**Mr. N. N. AYYANGAR.**—None, according to the inforn ation before me.

**Mr. H. HOMBE GOWDA.**—What is the service of Mr. Basavaradhya who is an Engineering graduate?

**Mr. N. N. AYYANGAR.**—Mr. Basavaradhya is a Surveyor. He has put in only 3 years and 7 months' service. Formerly he was a Sub-Overseer.

**Mr. H. HOMBE GOWDA.**—Is he not an Engineering graduate?

**Mr. N. N. AYYANGAR.**—Yes; but formerly he held only a certificate, and after he became a graduate, he was promoted.

**Mr. H. HOMBE GOWDA.**—With reference to the answer to (*f*) (ii), was only one out of eight non-Brahmins selected for promotion even though others also were graduates?

**Mr. N. N. AYYANGAR.**—At the time those promotions were ordered, there were no backward community men with the required qualifications, except Mr. Puttaswami who is of the Lingayet community.

**Mr. H. HOMBE GOWDA.**—Why is it that some non-Brahmins have not been promoted at all?

**Mr. N. N. AYYANGAR.**—Because there have been no vacancies.

**Mr. H. HOMBE GOWDA.**—Are Government aware that in the grade of overseers and other higher grades, there are very few non-Brahmins, and some special consideration ought to be shown to them?

**Mr. VICE-PRESIDENT.**—They can only come up gradually. However, the question will be looked into once again.

**Mr. B. S. PUTTASWAMY.**—With reference to answers to question (*f*) (i), may I know whether the 5 Brahmin candidates who were promoted are included in the 64 referred to in answer to question (*b*)? If so, why were not some more non-Brahmins also selected for promotion?

**Mr. N. N. AYYANGAR.**—These non-Brahmin candidates were appointed in 1934, whereas the direct recruitment referred to was made in 1930. At that time, there was only one backward class man and he was promoted.

**Mr. T. MARIYAPPA.**—With reference to answer to question (*f*), were all the Brahmin candidates selected in strict accordance with the Central Recruitment Board rules?

**Mr. N. N. AYYANGAR.**—Yes.

**Mr. T. MARIYAPPA.**—How many places were advertised as Special and how many as General?

**Mr. VICE-PRESIDENT.**—Notice.

**Mr. T. MARIYAPPA.**—How many non-Brahmin applicants were rejected?

**Mr. N. N. AYYANGAR.**—Notice.

**Mr. N. G. SANJEEVIAH.**—In 1934, some non-Brahmin candidates did apply, but they were all rejected. Did not an young man from the Sourashtra community apply in that year?

**Mr. N. N. AYYANGAR.**—Notice.

## GOVERNMENT BUSINESS—(*concld.*).

### VI. The Debt Conciliation Bill.

**The CHIEF SECRETARY to GOVERNMENT (Mr. A. V. Ramanathan)** explained the general principles of the Bill as follows:—

"The Committee appointed by the Government in 1934 to consider measures of relief to the agriculturists to tide over the economic depression recommended, among other measures, the reduction of agricultural debts by conciliation between the debtors and the creditors. In accepting the recommendation, the Government have come to the conclusion that a scheme of debt conciliation on a voluntary basis may be introduced. For implementing this, the Government propose to introduce a Bill to make provision for the setting up of Conciliation Boards to relieve

agriculturists indebtedness on the lines of the Acts which have been passed in the Central Provinces and Madras. The main provisions of the Bill are as follows—

"This measure applies to agriculturists who earn their living mainly by agriculture and whose debts exceed Rs. 100.

"It provides for the appointment of Debt Conciliation Boards consisting of a Chairman and two members appointed by the Government who shall hold office for a period of three years.

"Any creditor or debtor who wants the intercession of the Board may apply to it.

"Notice is sent to the creditors, and the debtor and the creditor are brought face to face with each other.

"The Board tries to persuade the parties to come to an amicable settlement. If the creditors to whom not less than 50 per cent of the debts are due and the debtors agree to a settlement, that agreement is recorded by the Board and registered and it has got the same effect as a decree of a civil court.

"The amounts due under the agreement, if not paid, shall be recoverable by the Deputy Commissioner as an arrear of land revenue. If they are not so recovered, the amount may be recovered as if a decree of a civil court had been passed for its payment.

"In case there is no settlement and the creditor is responsible for refusing to agree to an amicable settlement, the Board shall, if it is of opinion that the debtor has made a fair offer, grant the debtor a certificate in respect of the debts owed by him to such creditor. If the creditor subsequently sues in a court for the recovery of a debt in respect of which a certificate has been granted, the court shall not allow the creditor costs of the suit or interest at more than 6 per cent after the date of such certificate.

"Further, if after the registration of an agreement any unsecured creditor sues for the recovery of a debt, any decree passed in such a suit shall not be executed as against the assets of the debtor set apart in the agreement until all the amounts regarded as payable under such an agreement have been paid.

"Even those creditors who are not inclined to agree to an amicable settlement will be induced to agree, since otherwise they will not get any relief until all those who have agreed to obtain relief. There are provisions in the Bill which act as deterrants to creditors who refuse to be accommodative and as inducements to those who are helpful.

"The jurisdiction of a civil court is barred in respect of any matter pending before the Board.

"Any order passed by the Board will be final."

**Mr. C. N. NARASINGA RAO** expressed his gratitude to the Government for having proposed this legislation which would prove to be very beneficial to the indebted agriculturists. He said that nobody would doubt the usefulness of the measure; but he felt that it required to be improved in certain respects as below :—

(1) While a minimum indebtedness *viz.*, of Rs. 100 had been fixed as a condition precedent to a case falling under the purview of the proposed Regulation, no maximum limit had been specified. In the absence of a maximum limit, even debtors who owed lakhs of rupees might take advantage of the provisions and this he thought was not in accordance with the spirit of the Regulation. It might be that even a big Zamindar who owed a large sum of money to a moneylender might ask for the benefit of the Regulation; but he might really not be a person deserving of the special facilities contemplated in it. A person who dared to contract such large debts might naturally have adequate income with which in course of time he could repay the debts. The member therefore suggested that a maximum limit be fixed, *e.g.*, Rs. 5,000 or Rs. 10,000.

(2) It was not clear whether courts of law could entertain petitions from debtors subsequent to the award of certificates by Debt Conciliation Boards as also petitions from creditors against whom, subsequent to the filing of suits by them in competent courts of law

the debtors applied for awards by Conciliation Boards. These points should be clearly dealt with in the proposed Regulation.

(3) Power should be given to the Conciliation Boards for ascertaining, before granting an award, the total assets of the debtor and his repaying capacity, so that the creditor might not derive undue advantage from the Regulation and deceive the debtor.

(4) Scope should be created for unsecured creditors for securing their debts. Just as in the case of insolvency proceedings, a list of creditors, as furnished by the insolvent petitioner, should be published in the GAZETTE and applications invited from other creditors, if any. Necessary rules of procedure should be framed in this respect.

(5) Provision should be made to debar debtors from alienating their properties after applying for debt conciliation. This safeguard was necessary because, in view of such application, the jurisdiction of civil courts was proposed to be taken away and the interests of the creditors would surely be jeopardised if debtors were free to alienate their properties as they pleased.

Subject to the incorporation of provisions to the above effects, the member supported the Bill.

**Mr. S. K. VENKATARANGIENGAR** was of opinion that the provisions contained in the Bill before the House were not at all adequate to meet the object in view, *viz.*, relieving the indebtedness of agriculturists, for the simple reason that resort to Conciliation Boards was a matter of option on the part of not only creditors but also debtors. No creditor had reasons to be enamoured of this legislation. If at all, it ought to attract debtors, but as the Bill stood even these might or might not take advantage of its provisions. In all such matters, he said, there could be no half way house. To make the law sufficiently effective, it was necessary that Government should adopt a bold policy and make it incumbent on the part of creditors and debtors to resort to the Boards wherever the debtors happened to be agriculturists within the meaning of the Regulation in question. Otherwise, the speaker was afraid that the Regulation would remain a dead letter. The next difficulty lay in getting together creditors to whom at least 50 per cent of the debts were due. That would be no easy task, seeing that creditors and debtors were, as a rule, opposing elements; and so long as the parties failed to come together, settlement would become impossible, especially because the creditor would have nothing to lose by not agreeing to conciliation. The Board was going to allow only 6 per cent interest and that much of interest the creditor was sure of getting even from a civil court. So there was no charm for him to approach the Conciliation Board. On the other hand, there was provision in the Insolvency Regulation for composition of debts. If the debtor was able to pay a certain proportion of the amount due and if three-fourths of the number of creditors agreed, he could compound his debts without being declared an insolvent and the court would order a rateable distribution to the creditors. So this Regulation would not be an improvement over the Insolvency Regulation except in regard to the number of debtors that should agree to conciliation. No doubt, it was advantageous to the creditor in one respect, *viz.*, that his dues under the award could be recovered by the Deputy Commissioner as an arrear of land revenue. But advantage to the creditor was not the main object in view. If the Regulation was to be of real help to the debtors, it should be laid down definitely that in all cases where a debtor agreed to pay 50 per cent of his debts, this law ought to apply. It was by doing so that Government would be showing real sympathy for the raiyat, and not by providing that creditors to whom not less than 50 per cent of the debts were due should agree to conciliation.

Continuing, the member suggested that in cases where debtors made reasonable offers and creditors would not accept them, no interest ought to be allowed thereafter. The proposed legislation provided for interest at 6 per cent as it were a matter of concession to

debtors. Courts of law usually allowed interest only at that rate, so, that no debtor was going to be benefited if the same high rate was going to be allowed by the Conciliation Boards also. He much rather wished that there was no provision whatever for payment of interest in such cases. On the whole, the member thought that the provisions proposed were not quite adequate or likely to be effective. He was afraid that it would be a piece of legislation only in name. In the British Indian provinces where a similar law had been enacted, it had already become a dead letter. Even in regular courts of law where there were two assessors in addition to the judge to decide cases, they were finding it difficult to bring about conciliation and he was, therefore, not very hopeful of Conciliation Boards achieving much success. It would have been a separate thing if Government had not proposed to interfere in such matters at all. But having done so, they should have boldly proposed provisions calculated to yield really beneficial results to those concerned. They should, he suggested, do this even now or withdraw the Bill altogether in the hope that other Regulations in force, *viz.*, the Agriculturists' Relief Regulation, the Insolvency Regulation, etc., would give sufficient relief to all those deserving of it.

**Mr. T. MADIAH GOWDA**, in giving his whole-hearted support to the Bill, said that the entire raiyat population of the State was grateful to the Government for having proposed this legislation. Almost all the agriculturists of the State were too heavily indebted and it was but right that Government sought to go to their rescue at such a juncture. It was a matter for particular gratitude on their part that Government proposed the legislation in spite of the loss that would accrue on account of loss of stamp revenue. From the reports about the working of the Act in the Central Provinces, it was evident that several indebted agriculturists had been helped by it and that a large number of creditors themselves had offered to take advantage of it.

If the legislation was passed in Mysore, he had no doubt that it would be availed of not only by debtors but also by creditors. The creditors were finding it very difficult and expensive to resort to civil courts and recover their dues. This Bill created facilities for creditors to realise their dues without incurring any expense and for debtors to get full redemption by paying only a certain proportion of the dues.

The member did not agree with the view expressed by the previous speakers that the option provided in the Bill with regard to resort to Conciliation Boards would render the law ineffective. Representatives of the people had been repeatedly urging for the enactment of a legislation of this kind and its beneficial results would become evident soon after Conciliation Boards were established. It did not appear to him that anything like compulsion would fit in with a measure of this kind.

The system of settlement of disputes by arbitration had been in vogue in the villages from time immemorial and there was little doubt that this law, which was based on the same principle, would work equally efficiently.

There was however one small point which the speaker said was not quite clear, *viz.*, whether the members of the Board would be officials or non-officials. He would be glad if this point was also made clear at this stage alone. He also suggested that 3 or 4 gentlemen of status be appointed as members, instead of only 2.

**Mr. VICE-PRESIDENT** replied that the idea of Government was to have a judicial officer of Government as Chairman, the selection of members being made in the best possible manner in each case.

With reference to the suggestion that cases falling under the Regulation should be confined to a particular maximum limit of debt, Mr. T. Madiah Gowda did not expect that any agriculturist-debtor was so heavily indebted as to warrant the imposition of a maximum. Even granting that there were such cases, he did not see any objection to the Conciliation Boards handling them.

**Mr. JATHARE NAIK** said that the Bill had his strong support.

**Mr. P. SUBBARAMA CHETTY** said that the Bill was a welcome measure coming as it did at a time when, as a result of operation of the Agriculturists' Relief Regulation, the credit of raiyats was completely shaken. It would also help creditors to save the cost of litigation.

Differing from the view expressed by certain members that the Bill would help neither debtors nor creditors, the speaker cited the following statistics from the Central Provinces in order to show the extent of popularity of the corresponding Act in force there:—

Cases involving Rs. 1,28,33,000 were referred to Conciliation Boards.

These were settled for Rs. 78,65,000 resulting in relief to the extent of about Rs. 50,00,000 for the indebted raiyats.

Cases not settled by conciliation involved only Rs. 24,000.

At this stage, **Mr. N. G. SANJEEVIAH** enquired how many out of the above were cases which would otherwise have gone to insolvency courts, in which the creditors would have lost even the little they had realised by agreeing to conciliation.

**Mr. P. SUBBARAMA CHETTY** regretted he had not collected that information.

With regard to the mode of repayment of the amounts as awarded by the Conciliation Board **Mr. SUBBARAMA CHETTY** said that the raiyats were not in any position to pay any considerable part of the dues and he suggested that in order to satisfy the creditors, the Government themselves should issue loan bonds to them and recover the dues from the debtors in easy instalments as if they were arrears of land revenue.

Lastly, he suggested that the minimum limit now fixed should be reduced from Rs. 100 to Rs. 50 so that a larger number of agriculturist-debtors might be helped. With these observations, he supported the general principles of the Bill.

In further supporting the Bill, **Mr. M. A. GOPALASWAMI IYENGAR** made the following observations:—

Debt conciliation was one of the important measures suggested for the relief of agricultural indebtedness. The Bill had been framed on the lines of the Debt Conciliation Acts of the Central Provinces and Madras and it was proposed to introduce a scheme of debt conciliation on a voluntary basis. But the working of the Central Provinces Act showed that voluntary debt conciliation had not been a success. Up to the end of August 1935, the Conciliation Boards in the Central Provinces had conciliated only debts amounting to Rs. 128·33 lakhs out of the total agricultural indebtedness extending to about Rs. 100 crores, for Rs. 76·65 lakhs. Since the introduction of the Act in 1933, the Boards had been able to conciliate only a little more than one per cent of the total debts of the agriculturists. Further, the success of these Conciliation Boards was found to depend entirely on their ability to induce the creditors and the debtors to make an amicable settlement and on the good sense of the creditors to agree to a fair compromise. It appeared that the creditors were generally apathetic and that the secured creditors did not care for any compromise. And the debtors seemed to be also afraid of applying to the Conciliation Board for fear of losing the goodwill of the creditors and credit in future from them.

It was therefore suggested that a clause might be introduced in the Bill so as to enable the Conciliation Boards to make a compulsory conciliation of the debts due on the basis of some recognised economic and equitable principles if voluntary conciliation failed. The Indian Central Banking Enquiry Committee and some members of the Mysore Agriculturists' Relief Committee had suggested that legislative provision for securing a compulsory settlement, in cases in which the creditors would not agree to a voluntary settlement, should be made. Though Mr. Satyanathan in his report on Agricultural Indebtedness in Madras had not recommended any scheme of compulsory conciliation, he had still recognised the need for such a scheme only if the voluntary scheme failed to afford relief. Both experience and weight of authority

were thus in favour of making a proper provision for securing compulsory settlement if voluntary conciliation failed.

The Bill did not empower the Conciliation Boards to initiate inquiries into the debts of agriculturists and call upon creditors and debtors to appear before them for settlement of the debts due to the former from the latter. Such a power would enable the Board to undertake debt surveys and carry on propaganda in favour of debt conciliation on a voluntary basis. The Indian Central Banking Enquiry Committee had recommended the appointment of special officers in each province for bringing about conciliation by propaganda.

The Mysore Agriculturists' Relief Committee had observed that a scheme of conciliation to be successful should provide for some effective means of repayment of the compounded debt. But the Bill was absolutely silent on that point. As suggested by Mr. Satyanathan of Madras, provision should be made so as to enable the Conciliation Boards to furnish the debtor whose debts had been conciliated with a certificate showing the debts due by him under the conciliation scheme and the security at his command, together with their opinion that the debts could be paid by the Government or by a Co-operative Society or by a Co-operative Land Mortgage Bank. If the debtors did not possess immovable property which was enough to afford the margin of security required by those financing agencies, the Boards should have power to permit payment in instalments according to the repaying capacity of the debtor. If the debtor whose assets and earning capacity did not serve to clear off his debts, the application made to the Conciliation Board should be deemed to be an application for insolvency and the Board or the court having jurisdiction should have power to deal with it in a summary manner under the Insolvency Regulation. The Bill and the Mysore Insolvency Regulation required to be amended suitably for this purpose. Without a provision of that kind in the Bill, the scheme of debt conciliation would not be effective and useful, and relief of agricultural indebtedness would not be possible within any measurable distance of time.

The speaker therefore suggested that the Government might be pleased to incorporate the above proposals in the Bill.

**Mr. S. C. MALLIAH,** in supporting the measure, observed that it was not enough if the creditor and debtor were merely brought face to face with each other by the Board. The Board must step in in every case and see that the debts were conciliated. Unless this was done, he was afraid that the raiyats would never be relieved.

He did not agree with those who thought that conciliation boards of the sort contemplated would not work beneficially to the raiyats. He knew that in the villages many civil disputes were settled by panchayatdars without either party having to go to courts so that when the Boards specially appointed by Government for the purpose of effecting conciliation took up that work, they were bound to benefit the raiyats.

He was not in favour of the suggestion made by some of the previous speakers that a maximum should be prescribed with regard to amounts involved in the cases which might go before the Conciliation Boards.

On the whole he thought that the measure was very acceptable and that if modifications or improvements were considered necessary, they could be thought of later on.

**Mr. K. T. BHASHYAM AIYANGAR** congratulated the Government, on behalf of the agriculturists in the State, for the measure that they had introduced. It was well known that the prosperity of the State depended entirely on the prosperity of the raiyats. At the present time the raiyats were so heavily indebted that it appeared impossible for them to save themselves unless the State went to their rescue and afforded some extraordinary measure of help. It was therefore the duty of every one who had the prosperity of the country at heart to help the raiyat to become debt-free not only urgently but honourably. One method which had been adopted in all other countries,

and which could well be adopted in Mysore too, was the method of bringing debtors and their creditors face to face in the presence of Conciliation Boards and, as far as possible, try to bring about a settlement of the debts coupled with an easy method of repayment, so that the creditors would be satisfied that they would get what they were reasonably entitled to and the debtors, on the other, would feel relieved by the fact that they would not be coerced and crushed. Such a method had been embodied in the measure before the House. It would be no exaggeration to say that if this measure was passed and worked by all concerned in the spirit in which it had been conceived, there could be no doubt whatever that the raiyats who were so heavily indebted at the present time would find themselves saved at no distant date. That, he thought, would be the beginning of national prosperity.

There were very many items which members could suggest in order to implement what was contained in the measure. One such was that the Government should follow it up by a debt redemption scheme. Another was that the Government should create further credit facilities in rural areas. These and other similar suggestions could very well be made and also conceived of by the Government. He would therefore appeal to Government not merely to have the proposed measure passed but also to implement it in all possible ways.

Some members had already made certain suggestions with regard to details and he had also certain other suggestions to make. For example, it might be desirable to make provision for the settlement of those debts also in which less than Rs. 50 were involved. Recovery of debts by easy instalments must also be clearly provided for as otherwise the provision for recovering them as arrears of land revenue might be interpreted to mean that the amount was recoverable in a lump. Though the measure was proposed with special reference to agriculturist-debtors, there would be no harm in extending it to other debtors also. But these and other suggestions could well be discussed and adopted, if need be, at the select committee stage.

**Mr. V. VENKATASWAMI CHETTY** also welcomed the measure. He said that both debtors and creditors found themselves in a miserable plight at the present moment. No creditor would lend money with a view to ruin the borrower and no borrower would raise loans with the object of cheating the creditor. But, due to continued economic depression, the borrowers were unable to discharge their debts and the creditors were every moment running the risk of losing their moneys. The proposed Bill sought to go to the rescue of both these classes of persons and for this reason he would wholeheartedly support the measure.

**Mr. A. VENKATESIAH** opposed the measure. He observed that those who had spoken already had congratulated the Government, but he for one saw nothing to warrant congratulations. It was true that agriculturists were heavily indebted, but why? Had Government taken the trouble to ascertain the reasons for it and moved even their little finger for saving the situation? What steps had the Government taken to vouchsafe contentment and happiness to the raiyats? Government might say that bankers had lent and raiyats borrowed moneys for which the Government themselves were not responsible. But was that so? After all, those calling themselves bankers and lent large sums of money as a matter of business were very few and the bulk of them generally lived in the cities. But the bulk of petty moneylenders lived in the villages and it was they who were responsible for the present plight of the raiyats. They themselves might have borrowed moneys with a view to lend to ignorant agriculturists at appallingly heavy rates of interest and even such moneylenders would in many cases come within the meaning of the term "agriculturist" as defined in the measure under discussion, because ostensibly they might be agriculturists owing the prescribed minimum debt to some others. If that happened, he did not know which really deserving

interest was going to be served by the legislation proposed.

Then, the Government had done nothing to enable the agriculturists to save even a few rupees, annas and pies. Agriculturists were not getting proper prices for their produce though they toiled hard on their fields. On the side of industry, crores of rupees were going out of Mysore in the form of gold. As regards trade, prohibitive duties were levied by the British Indian Government on exports from the State and Government had not taken steps to prevent the drain. Even internal administration was top-heavy and the raiyats, from whom the bulk of the State's revenue came, were unable to contribute the cost thereof. In short, on the one hand, the raiyats were burdened with over-taxation and on the other their earning capacity had decreased. Most of them had only one meal a day and some of them could not afford to have more than a half meal. And Government had done nothing to improve their position. For these reasons he did not think that the Government deserved congratulations on any count.

Next, as regards the merits of the proposed measure, he said that it would not be helpful to honest creditors and in addition, it sought to strike at the root of contractual relations subsisting between debtors and creditors. It amounted to saying that loans made in good faith were not in law bound to be repaid. Further, the genuineness of claims preferred by plaintiffs could not be ascertained by Conciliation Boards because there was no provision for recording evidence according to the Evidence Act or summoning witnesses according to the Civil Procedure Code. In the absence of these, there was a possibility of even fictitious claims on the part of creditors or frivolous defence on the part of debtors proving successful, much to the prejudice of the other party. In the next place, the measure was premature for the reason that measures for debt redemption should have been organized and Land Mortgage Banks established in all places before debt conciliation was thought of. And even if the measure under discussion was taken u first, it would be better, he thought, t try its working in a few places to begi with, instead of applying it to all par of the State at once. Personally h feared that just like Bench Court Conciliation Boards also would prov unworkable.

**Mr. K. SRIKANTAIAH,** in supportin the measure, observed that both debtor and creditors would welcome it. Un like the previous speaker, he said h was very hopeful about the successfu working of Conciliation Boards, becaus more than debtors, creditors would b willing to apply for the intercession o the boards. And by the method o settlement by conciliation, the speake thought, litigation would decrease an an impetus given to settlement o disputes out of court. Because interes on debts would go on accumulating, th burden on the debtor would increas every day. Even if the creditors wer on fleecing the debtors, few of thei could afford to go to court because o the heavy cost of litigation. But resor to Conciliation Boards would cost ther nothing and so these boards were, i his opinion, bound to become popula The same was the case with all debtor generally, and he suggested that debtor other than agriculturists be also give the benefit of this measure.

He next brought to notice that in large number of cases, petty merchant would open shops in the villages, ge into touch with large scale dealers i the cities, posing themselves as wel established merchants, obtain provision on credit and never pay. When th creditor-merchants pressed for paymen of dues, the debtors would manage t secure the intervention of local arbitra tors and pay nothing or only a few anna in the rupee. Thus, large scale provisio dealers in the cities were experiencing heavy losses. In this view he urged that the benefit of this measure be ex tended to merchants in the cities and that Conciliation Boards be established in the two cities of Bangalore and Mysore.

**Mr. K. P. CHANNABASAVAPPA,** in further supporting the measure, thanked

;he Government for introducing it and ;aid that it had not come a day too ;oon. But he suggested that in addi- :ion to discharging their dues the agri- ;ulturist-debtors should also be helped ;o keep their body and soul together.

**Mr. M. S. PUTTARAMA SETTY** also supported the measure. But he added ;hat if, instead of bringing creditors ınd debtors face to face in the presence ɔf Conciliation Boards, the Government ;hemselves had directly gone to the :escue of debtors, he would have ap- ɔreciated very much that gesture on the part of Government. They could ıave themselves paid off the debts on behalf of the agriculturists and recover- ɜd the same from them in easy instal- ments, so that the debtors' dealings would lie with a sympathetic Govern- ment rather than with unsympathetic private moneylenders. He did not ;hink that Land Mortgage Banks were ɜager or likely to help agriculturists very much. That, however, was the ɜxperience of most poor people. So ;here was no use thinking of them in ɔonnection with the proposed measure.

**Mr. H. B. GUNDAPPA** welcomed the neasure. But he said that it would ıave been better if the Government ıad introduced a debt redemption ;cheme before bringing forward this neasure. Now, beyond bringing both ;he debtor and the creditor face to face n the presence of Conciliation Board, ;hemselves standing aloof, they had ıot done anything by the raiyat. He vas afraid that debtors might hesitate ɔ seek the intercession of the Concilia- ;ion Boards because, if instead they :esorted to civil courts they would get 3 years' time for the repayment of debts ɔ that they might keep their properties ntact and slowly prepare to discharge he loans at the end of the period ;llowed. But under the proposed neasure, they would have to repay the lebts in one lump; otherwise, the ;mounts awarded by the Conciliation 3oards would become recoverable as ırrears of land revenue and their lands vould be proceeded against. Thus, hey would lose all their lands which were the only means of their sub- sistence. In that event, the very object of the Bill would be frustrated. He therefore thought that the power proposed to be given to Deputy Com- missioners to recover the amounts as arrears of land revenue should not be provided for.' The measure had been designed to help the agriculturists, but if this power was given and exercised, these would certainly become non- agriculturists. The member therefore suggested that some other method of debt redemption must be devised whereby the agriculturist would not be hard hit. Personally he felt that the Government should have done some- thing to help the unfortunate agricul- turists. In Bhawanagar, for example, the State had repaid one-fourth of the debts owed by agriculturists. But in Mysore the Government had extended no such relief. He was very sorry that Government should have kept aloof from the transaction. It was not only debtors that were suffering at the present time Even creditors had diffi- culties of their own. In fact he was aware of cases where creditors went to him and requested him to intervene and effect a settlement even at the rate of a few annas in the rupee. This, he said, showed to what a plight both borrowers and creditors had been reduced. The Government often re- ferred agriculturists to Land Mortgage Banks, but these banks rarely helped them, and in cases where they did, the loans would be given very long after they were applied for. Thus, the Land Mortgage Bank scheme itself was not of use to many, and there were no hopes of the scheme of Conciliation Boards helping them either. In conclusion, the member referred to the powers proposed to be given to the Conciliation Boards and suggested that the decisions of these boards should be final and not made appealable.

**Mr. L. VEMA REDDY,** speaking next, observed that the measure was pre- mature and would lead to complications in its working. The raiyats were in a miserable condition and could not pay back their debts even in part. The speaker therefore thought that Govern- ment should have taken up some effective means of debt redemption

before introducing this measure. Secondly, a creditor himself might have borrowed from a banker, and if necessary might be able to pay back all his debts. But taking advantage of the proposed measure, he might say that he could not pay all the debts; and might seek the help of Conciliation Boards. Why, the member asked, should such undeserved concessions be shown to anybody? In the next place he did not know how the Government would be justified in asking creditors to forgo any portion of interest due. Supposing an agriculturist had obtained loans from the Government, the speaker asked whether the Government would be prepared to extend the benefits of the measure to him. Even Government borrowed funds on which they had to pay interest and they could not afford to forgo interest on loans advanced by themselves. Similarly the moneylenders might have their own difficulties and it would not be fair to insist that they should forgo any portion of their legitimate dues. If the creditors were getting on well, they would be in a position to help their debtors. If they themselves had financial difficulties, help to debtors would be out of the question. And even apart from the affluence of creditors, it was unfair that anybody should be helped at the cost of another. Contentment on the part of all classes of His Highness' subjects was essential in the interests of the prosperity of the State. For these reasons, he could not lend his whole-hearted support to the proposed measure.

**Mr. Belur SRINIVASIENGAR** also observed that the measure was premature and incomplete and that a scheme of redemption of debts should have preceded it. Government had stated on a previous occasion, when the Agriculturists' Relief Regulation was introduced, that if debt conciliation should be effective, some other concomitant measures might have to be undertaken. One such measure was redemption of debts. But Government had not tackled that problem as yet. He was afraid that without debt redemption the working of Conciliation Boards would be a failure. The State was under an obligation to the agriculturist to do some substantial good to him in order to save him from indebtedness. How then could relief be given? Providence was very kind to Mysore in placing within the bowels of its earth a gold mine which did not exist anywhere else in India. The mine now yielded as much as Rs. 26 lakhs per annum. The Government could well have spared that revenue to save the raiyat. But they had not done that. The Sivasamudram Hydro-Electric scheme was yielding as much as Rs. 36 lakhs per annum, which could have been utilised in the service of the raiyat. But it had not been done. Again, from the excise duty on matches and sugar, they were getting as much as Rs. 10 lakhs a year. That, they could have spared for affording relief to the raiyats, but they had not done even that. There was a saving of Rs. 10 lakhs due to reduction of subsidy, which could have been spent for the relief of raiyats, but even that had not been done. Crores of rupees had been wasted on speculative enterprises owing to different policies pursued by successive Dewans. He asked why the Government had not given at least a few lakhs of rupees to redeem the debts of the raiyats. They had no doubt proposed the conciliation scheme. The motive underlying that proposal was generous. But, with a similar generous motive, they could have introduced a debt redemption scheme also. He hoped that they would do it at least in the near future.

**Mr. N. G. SANJEEVIAH**, who next spoke, feared that the conciliation scheme proposed, being voluntary in its nature, would not be of much practical benefit. He was of opinion that all creditors must be compelled to come to amicable settlement in all cases in which debtors applied for such settlement. Without such compulsion, he was afraid that no creditor would agree to receive only a portion of the debt due to him, more especially because he could prefer to get the benefit of the provisions of the Agriculturists' Relief

Regulation which were more advantageous to him. Nor would the scheme of settlement by conciliation be of any very great help to the debtors in view of their very heavy indebtedness. On the other hand, it would cause further trouble to them, because no raiyat would easily get credit when large sums were outstanding against them. The speaker therefore thought that creditors should be compelled to agree to settlement by conciliation whenever agriculturist-debtors applied to Conciliation Boards.

**Mr. MUNIVENKATAPPA** observed that he was not in favour of making any invidious distinction as between debtors and creditors. He proposed that the element of compulsion which was proposed to be introduced as against creditors ought to be applied against recalcitrant debtors. In the case of debtors who had mortgaged all properties, he suggested that conciliation should be effected in such a way as to leave some property for the sustenance of the debtors and their families. He also suggested that interest at more than 6 per cent should be disallowed by the boards.

*At this stage, the House adjourned for lunch and reassembled at 3-30 p.m.*

**Mr. B. L. BYANNA** said that though the object of the measure was laudable the element of option coupled with the scheme had given rise to doubts in the minds of the public as regards its results. The scheme permitted of reduction of debts by means of conciliation between debtors and creditors. A raiyat might have, in addition to contracting debts from private parties, also obtained takavi and other loans from the Government. There was no indication in the Bill whether Government would agree to settlement of such loans also by conciliation. Again, he might have borrowed from co-operative societies or banks. The managing committees of such institutions might not be prepared to agree to conciliation and even if they were agreeable, they would have to refer the matter to their general bodies which might not agree to forgo any portion of the dues, and reference to general bodies might entail waste of time without any benefit to any party. Therefore, he suggested that the Bill might be applied only to cases in which the creditors, being anxious to recover at least a portion of the amount due by their debtors, applied to the board for conciliation.

It had been time and again represented in this House and elsewhere that the rates of assessment in the State were much higher than those elsewhere. Unless Government reduced the rates of assessment, no scheme of relief would be effective.

It had been stated that a judicial officer would be Chairman of the Board and his two associates would be non-official gentlemen. The member was doubtful if the pay of the judicial officers who would have to work as Chairmen of the various Conciliation Boards as well as the cost of their establishments would be borne by the Government, or it was proposed to throw the cost on the parties seeking conciliation. He wanted this point to be made clear at the outset. He also thought that as a preliminary to this scheme of debt conciliation, Land Mortgage Banks should be opened in all parts of the State and a comprehensive scheme of debt redemption prepared. Till then, the measure under discussion would be both premature and ineffective. For these reasons, he opposed the measure. But he added that he would have no objection to it if the scheme was improved so as to compel all creditors to agree to settlement by conciliation if their debtors applied to the Conciliation Boards.

**Mr. B. SRINIVASA RAO,** referring to the suggestion made by one of the previous speakers that the creditors might be given State loan bonds in full settlement of their debts and the amounts thereof recovered by Government from the debtors, said that that would in no way improve the position of the debtors. If at all, they would be debtors to the Government, if not to private parties. Besides, it would not be possible for the Government to undertake all the risk that such a scheme might involve. Instead of

that, Government would do well, if they had the real interest of the raiyats at heart, to advance loans to them to enable them to carry on their agricultural activities and recover the loans from out of the sale proceeds of the agricultural produce. As, under the existing conditions, the raiyats were finding it difficult to raise loans for purchasing plough cattle, seed, agricultural implements, etc., this help would be very much appreciated by them. Subject to the grant of such concessions by the Government, the member supported the measure.

**Mr. H. K. MADIAH** did not consider that there was any pressing need for the measure at present. What was proposed in the measure was already being done by private parties and in some cases, the creditors had agreed to receive only 40 per cent of the amounts due and to write off the rest, as against 50 per cent referred to in the Bill. When the Agriculturists' Relief Regulation was passed, the raiyats thought that a millennium was going to dawn before them. Already that Regulation had been amended twice as a result of which the agriculturists could not raise any loans in future. In other words, the Agriculturists' Relief Regulation was not of any real benefit to agriculturists. Similarly, the proposed Conciliation Boards also might not result in much relief to them. Instead of proceeding with this measure, the Government would do well to increase the number of Land Mortgage Banks and branches of the Mysore Bank in the State and thus enable the raiyats to raise money for their normal purposes. The economic condition of the country was not satisfactory and the present was not the opportune time for it.

Continuing, the speaker said that if the Government were particular about proceeding with the measure, he would suggest an improvement. The restriction that only those whose debts exceeded Rs. 100 could have the benefit of the intervention of Conciliation Boards would needlessly minimise the good effects of the scheme, as the liabilities in the case of a large number of raiyats might not exceed Rs. 50 or 60, and he would therefore suggest that th limit fixed might be reduced to Rs. 50

**Dharmapravartha M. L. NAGAPPA SETTY** said that at first sight the Bil appeared to be beneficial to both credi tors and debtors, but all the same, i required to be examined how far i would be helpful to agriculturists i particular. In the absence of th details of the Bill, members of th House could only make a superficia study of the Bill. This was a measur which would have retrospective effect in the sense that it would apply to loans raised prior to the date of its taking effect. The measure would also affect the provisions of the Contrac Act and the Civil Procedure Code. In such a case, it was necessary tha opinions and criticisms should be offered after a very careful study of the details of the Bill. So it was desir able to give time to the members to study the details of this Bill and bring it up before the next session of the Assembly.

**Mr. C. CHELUVIAH** said that if these cases were disposed of by Conciliation Boards, both creditors and debtors would be helped, no doubt, but the Govern ment would stand to lose the bulk of its stamp revenue and the State would suffer on that account. He enquired whether Government had in view any proposal to make good that loss.

Replying for the Government, **Mr. A. V. RAMANATHAN** said that from the speeches of the members and criticisms offered by them it did not appear to him that there was any difference of opinion as regards the necessity for the measure. Only one member had suggested that some time was necessary for studying details, but he was sure that even that member would give his support to the measure after such study. Since there was a general consensus of opinion in favour of the measure, he would not go into the details of the Bill, but would confine himself to one or two points raised in the course of the discussions.

It had been suggested by some of the members that a scheme of conciliation on a voluntary basis would not prove to be very effective and that it should

be made compulsory. One other speaker had referred to what was known as the Satyanathan Report. In that report, it had been stated that there should be no compulsion, at least for the present, that the working of the machinery for voluntary conciliation to be created should be carefully watched for some time and that if that machinery failed, compulsion should be applied as the very last resort. The Committee that considered this subject in the State had recommended, as conciliation in all places was on a voluntary basis, that a similar procedure might be adopted here also. Government had accepted that view. In all such matters, it would be risky to take final decisions. For similar reasons, Government had not considered it necessary at this stage to give insolvency jurisdiction to the Conciliation Boards.

Referring to the suggestions made by Mr. C. N. Narasinga Rao, the speaker said that most of them had already been embodied in the Bill which had been published for the information of the public, in the last week's issue of the MYSORE GAZETTE. Once the general principles were accepted, all the details would, of course, be discussed at the Select Committee stage.

As regards the points raised by other speakers, such as those relating to procedure, etc., he feared that if too many details were laid down the procedure would become cumbersome and the main object of the measure might be lost. The main object was that both debtors and creditors must be made to come together and arrive at a settlement by mutual consent. Too many restrictions would not conduce to smooth working. It was desirable that the Bill was simple and easy of work.

An observation had been made that without a comprehensive scheme of debt redemption, debt conciliation by itself could not do much good to the people, and that this aspect of the question had not been considered by the Government. He invited the attention of the members who had made that observation to the Government Order on the report of the Agriculturists' Relief Committee, wherein they had stated that the two principal recommendations of the committee to deal with the situation were extension of the Land Mortgage Bank scheme in order to enable indebted agriculturists to convert their dues into long term loans, and settlement of debts by means of conciliation. It had also been stated therein that the operations of the Mysore Co-operative Land Mortgage Bank had been extended to 22 taluks and it was the desire of the Government that the scheme should be further extended, as rapidly as possible, to other parts of the State also. So, Government had not lost sight of the first suggestion of the Committee. In spite, however, of the extension of the land mortgage scheme there would still remain a large number of cases in which it would be impossible for the debtors to discharge their liabilities in full; it was to deal with such cases that a scheme of composition of debts of agriculturists had been recommended by the committee. But such boards could not be brought into being without the Bill under discussion being passed. The Government were anxious to extend the operations of the Land Mortgage Bank and the Committee on Co-operation had been requested to suggest how best this could be done. If, as was pointed out by one of the members, there was not sufficient money for the Land Mortgage Bank to give relief to the raiyats, the question of providing funds could be considered and solved as best as circumstances permitted.

With these observations, he commended the Bill for the acceptance of the House, promising that all the suggestions made by the members in the course of the discussions would receive due consideration in course of time.

*The general principles of the Bill were put to vote and passed by a large majority.*

## GENERAL DISCUSSION ON THE BUDGET.

In offering his criticisms on the Budget, **Mr. K. T. BHASHYAM AIYANGAR** said that the first impression he

had gathered was that the budget estimates had been prepared with great sagacity and wisdom and that the Government deserved to be complimented on that account, more especially because they had succeeded in placing before the House a surplus budget, providing, at the same time, larger grants for items of public utility. But on a detailed study of it, he was sorry to find that the items of expenditure provided for in the previous year had merely been repeated; that no additional grants had been provided for items of public utility, and that the so-called surplus was due to the increased revenue which the Government imagined they could realise from miscellaneous taxes, Income-tax and Railways. If at least they had provided enhanced grants for the departments in which the public were vitally interested, that would have given some satisfaction to him. But this had not been done. In his Address to the Assembly, the Dewan had stated that better days had dawned on the State and that the time had come for removing the cuts in the salaries of Government officers. The speaker doubted whether the State had really entered on such a prosperous period. The budget at any rate did not warrant any such hope. So far as the raiyats were concerned, they were groaning under the weight of heavy taxation—both direct and indirect—and he asked whether any attempt had been made to lift that weight even to a slight extent. The budget did not hold out promises of any sort of relief to the raiyat. Ninety per cent of the population was steeped in ignorance, being illiterate. and yet, no serious attempt had been made at spreading education. Time and again, representations were being made that medical relief was insufficient, but no addition worth the name had been made to the allotment under that head. There were many villages without schools, dispensaries and other essential requirements, and villages in which the sanitary condition was anything but satisfactory. But their condition was not improved. In season and out of season, it was being represented that the administration was top-heavy, that the officers were too many and their salaries too high and that they should be retrenched. Not only were these representations not heeded to, but it had been proposed to remove salary cuts. This could not but cause severe disappointment to the public.

The Government could have helped the people in ever so many ways. They could have given encouragement to the cottage industries. They could have encouraged the fruit canning industry. Though fruits could be grown on an extensive scale in the State, the same were being imported from Singapur and Japan on a colossal scale. No doubt, the Government had started some other factories, but they could not, as small cottage industries could, help millions of poor people scattered all over the State. The Government could have appointed an Unemployment Bureau in order to solve the question of unemployment just as had been done in smaller States of Europe, such as Czechoslovakia, and earmarked a good portion of their revenue to help young men struggling for employment. The Dewan had dealt with the question of unemployment at length in his opening Address and it was clear that his heart had melted, but what had it meant practically? Nothing. The Dewan had not taken keen interest and done anything for the thousands of disappointed youths in quest of jobs. Large house-building or road-making or bridge-making schemes based on a five-year or a ten-year plan could have been undertaken. Even the existing causeways were far from satisfactory and funds had to be provided for improving them. Courts of Law were few and far between and there were great delays in the disposal of suits. There were no good libraries and waiting sheds attached to the courts. These wants could have been supplied. Even in these days when raiyats were finding it hard to raise sufficient crops, 25 per cent of the cultivable lands had not come under the plough. The Agricultural and the Industries Departments could have put their heads together and devised ways and means to

**9. Bill to make provision for the setting up of Debt Conciliation Boards in Mysore to Relieve Agriculturists from Indebtedness.**

(*a*) *Motion that the bill published under Rule* 8 *of the Rules of business be read to Council.*

**THE CHIEF SECRETARY TO GOVERNMENT. (Mr. A. V. Ramanathan).**— Sir, I beg to move that the bill to make provision for the isetting up of Debt Concilation Boads in Mysore to relieve Agriculturists from indebtedness, published under Rule 8 of the rules of business be read in Council. I am sure this House recognises that the bill that I am now presenting today is its own child, and that in presenting the child to its parent I need not submit any lengthy arguments. The idea that debt conciliation may be tried as a remedy for the chronic indebtedness of the agricultutist was first suggested by the Royal Agricultural Commission presided over by His Excellency the present Viceroy. This was followed up by the advocacy by the Indian Central Banking Enquiry Committee of a vigorous policy of debt conciliation on a voluntary basis to be supplemented by legislation to secure a compulsory settlement in cases where the lender would not agree to a valuntary settlement.

It is now generally recognised that effective steps for moderating the burden of debt on just and reasonable lines cannot be delayed if agriculturists as a class are to be saved, and the present process of the transfer of land into the hands of middlemen and the professional money lender is to be arrested. The law of such debt conciliation is in force in the Central Provinces, in the Punjab and Madras and in the States of Bhavanagar and Cochin and legislation with this view is under active contemplation in Bengal, Travancore and elsewhere.

It is on the motion of this House that a Committee was constituted in order to enquire into the fall in prices of agricultural products, the extent to which the raiyat population has been affected thereby and to devise measures for affording them such relief as can be given. That Committee over which the present Second Member of Council presided recommended that a measure of debt concilitation may with advantage be tried in Mysore so that the standing debt may be brought down within the repaying capacity of the debtors. And on the question of whether conciliation should be voluntary or compulsory, the Committee stated that while the entire Committee was agreed about the desirability of introducing a scheme of voluntary conciliation on the lines admubrated by them in para 32 of their report (I will not read the whole of it) some of them were inclined to doubt whether this would by itself be sufficient. They held that while the parties might come to a voluntary settlement, there might be cases where the creditors would not agree to conciliation and the whole proceeding might prove futile. The

Indian Central Banking Enquiry Committee have suggested that in cases in which the lender would not agree to a voluntary settlement of the debt, it would be necessary to take action and that there would be necessity for legal enactment. Such of the members of our Committee who doubted whether the voluntary conciliation would be sufficient suggested that while the scheme might be generally of a voluntary character, the possibility of having to introduce some measure of compulsion should not be overlooked and that suitable legislation should be undertaken to enable Government to extend the scheme on a compulsory basis in areas in which it is found to be necessary or expedient. In passing orders on that report, Government agreed with the Committee that a scheme of debt conciliation should be introduced as an experimental measure in a few select areas. The scheme proposed by the Committee was held by the Government to be generally acceptable except for the few modifications which have been indicated in para 14 of the Government Order of 30th October 1935. Government finally stated that the scheme as suggested by the Committee and with the modifications indicated in the Government Order of 30th October 1935 would be subjected to further consideration and examination of details in consultation with the High Court.

The High Court was accordingly consulted and their suggestions on few points have also been embodied in the draft bill now placed before the House which is based mainly on the lines of the Central Provinces and Madras Acts. The scheme according to the bill is on a voluntary basis. The measure will apply to agriculturists who earn their living mainly by agriculture and whose debts exceed Rs. 100. Debt Canciliation Boards consisting of a Chairman and two members will be appointed for a district or part of a district. Any debtor or creditor may apply for intercession. The Boards will persuabe the parties to come to an amicable settlement. If the creditors to whom not less than 50 per cent of the debts are due and the debtor agree to a settlement, that agreement is recorded by the board and registered and it will have the same effect as a decree of a civil court. There are also certain other provisions in the bill which in a way would indirectly affect the creditors if they do not come to an amicable settlement. I will briefly mention a few of them. Where there is no settlement and the creditor is responsible for refusing to agree to an amicable settlement, the Board shall if it is of opinion that the debtor has made a fair offer, grant the debtor a certificate in respect of the debts owned by him to such debtor. If the debtor subsequently sues in a court for the recovery of a debt in respect of which a certificate has been granted, the creditor will not be entitled to the costs of the suit or interest at more than 6 per cent

after the date of such certificate. If after the registration of an agreement any unsecured creditor sues for the recovery of a debt, any decree passed in such a suit shall not be executed as against the assets of the debtor set apart in the agreement until all the amounts regarded as payable under such an agreement have been paid.

Even those creditors who are not inclined to agree to an amicable settlement will be induced to agree, since otherwise they will not get any relief until all those who have agreed to obtain relief. These provisions act as deterrents to creditors who refuse to be accommodative.

There are two other small but effective matters to which I would like to draw your attention, *viz.*, that the jurisdiction of a civil court is barred in respect of any matter pending before the board constituted under this bill, and any order passed by the board will be final.

The principles of this bill were placed before the last session of the Representative Assembly and were widely welcomed except for one dissentient voice so far as I could remember. The general principles were after discussion put to the vote and passed by a large majority. I commend this bill to your favourable consideration.

**The SECRETARY TO GOVERNMENT, DEVELOPMENT DEPARTMENT (Mr. M. Venkatanaranappa.**—Sir, I beg to second the motion.

**Mr. PRESIDENT.**—In view of the shortness of time and in view of the fact that the bill is going before the Select Commttee, I would request the hon'ble members to be very brief in their remarks.

***Mr. J. MAHOMED IMAM.**—Sir, I feel it my duty to oppose this bill as it stands. I was also a member of that committee, so I want to make it clear that I am consistent in my views. While opposing it let me not be misunderstood that I am in any way against the interests of the raiyats ; nor am I holding any briefs for the creditors. My honest opinion is that this is a measure which cannot be worked. This is a measure which is not a practical one and which ultimately cannot result in any benefit to the raiyat. On the other hand, it may be prejudicial to the raiyat. We passed the Agriculturists Relief Regulation about 4 or 5 years back. I doubt very much if that Regulation has really brought any relief to the raiyat except giving them a handle to contest. Secondly, we have introduced a series of amendments to countreact the effects of that Regulation. I submit that this is a measure which cannot be worked, firstly because the procedure adopted is not quite proper. It is said that conciliation will be voluntary. If my opinion, conciliation will be voluntary is case only when both the debtor and the creditor agree to submt to conciliation. But the bill on the other hand provides that if one of the parties puts in an application, *viz.*, the debtor, the creditor whether he wills or not, he must submit to arbitration,

So the bill is not quite a voluntary one. There is a certain amount of compulsion in it. Secondly, if the debtor puts in a application, it is not one creditor alone, but all the creditors have to submit to the decision of the arbitrators. So the bill is not a voluntary one. There is compulsion.

As regards the mode of working, you want the whole thing to be worked by a panchayet to be appointed by Government. I do not know what kind of a panchayet it is and who are the persons that constitute these panchayets ; if they are local persons or whether disinterested persons from outside will be imported. I doubt very much if these panchayetdars will be capable of discharging their duties quite satisfactorily to both the parties. If the matter is entrusted to local people, you cannot get disinterested people, I am afraid, because they may belong to the party of the debtor or of the creditor. What is there to induce them to be above temptation ? And I can tell you people of standing will not come forward to do this work because it is a thankless job and if any come forward, they are those on whom we cannot rely. So I doubt very mush if you can get sincere workers. What is it that you are going to pay them ? If you are going to pay them highly and put them above temptation I agree. I believe you want them to work gratis, and you expect them to do justice. Are they in a position to do justice ? So many issues may arise. Parties may plead so many points. Can they function properly or discharge their duties much in the same way as a court of law could do ? All these things ought to be considered. I am afraid the panchayet may not be above temptation and they may side the creditor or the debtor.

Mr. A. V. RAMANATHAN.—It will help Mr. Imam to know that the intention of the Government as announced already in the Representative Assembly by the First Member of Council, is to have as Chairman of these Boards officers of judicial experience.

Mr. J. MAHOMED IMAM.—I do not know if any Munsiff or Sub Judge is available.

Mr. PRESIDENT.—We are going to barrow from the Judicial Department.

Mr. J. MAHOMED IMAM.—You must pay them wel.

Mr. PRESIDENT.—Sufficient to keep them contented.

Mr. J. MAHOMED IMAM.—Again, conciliation is left to be decided between the creditor and the debtor. The debtor is asked to make a fair offer. I am sure he will never make a fair offer and with the offer that he makes, the creditor will not be be satisfied. But one thing. The creditors would be very glad to get something in cash. So many creditors would be willing to forego 50 per cent of their amount. But what is there to induce them to accept it ? Are you going to pay the conciliated amount in cash ?

Mr. PRESIDENT.—Did you not press all these points before the Committee ?

Mr. J. MAHOMED IMAM.—I pressed all these things. If the Government is prepared to pay off the conciliated debt then and there, then only would there be some chance. But there is no such thing. It was proposed in the Committee that the Government may issue bonds, but I am afraid it is not a practical measure.

*Rajasabhabhushana Diwan Bahadur* K. R. SRINIVASA IYENGAR.—Sir, owing to shortness of time, I wish to to say only a very few words. This is a most important piece of legislation and I cannot think of any one which is more necessary and more useful and beneficial to the raiyats. It may be that in respect of the details of the bill there is some difference of opinion. They will be thoroughly threshed out in the Select Committee stage. I have myself got several suggestions to offer with regard to some of the provisions, but I do not want to take up the time of the House with them now. So far as the main principles of the bill are concerned, I believe there is no difference of opinion ; or at any rate, that most of us are agreed and I therefore give my hearty support to it.

There is one point however I want to mention about this bill. While it is no doubt a most beneficial measure will by itself not achieve all the objects aimed at unless Government also take suitable action later on to help the debtors to find funds to pay of their conciliated debts. The bill must be supplemented by other suitable measures in this respect. But that does not in any way detract the necessity for this bill. So far as this bill is concerned, I hope this House will give its unanimous support to it and allow it to go before the Select Committee.

*Mr. H. SIDDAIYA.—Sir, I support this bill because it is beneficial to the agriculturist, but while I do that, I would like to refer the clause 2 (*f*) (*i*). This bill contemplates to give benefit not merely to agriculturists, but also to all classes of people irrespective of their occupation, provided they own a piece of land. This is clear from the definition of the word "debtor" in the bill. Therefore this section applies not merely to agriculturists, but to non-agriculturists also. It is obvious. In the old Regulation, it applied to such of the persons who ordinarily engaged themselves in agriculture. But that is not the case in this bill. Whether it applies to agriculturists only or to non-agriculturists also, must be made clear. This, I think, is very defective or at any rate it is wrongly worded if it is the intention of the bill to give relief only to the agriculturists. I think on the presumption that this bill is beneficial to the agriculturists, there is support, but this section applies to non-agriculturists also. This point must be made clear. There is also another thing which is very serious. The decision will be by a board consisting of a chairman and two members and the quorum will be the Chairman and one member. This will by a decision ordinarily by two members. And in case of a difference of opinion between the

member and the Chairman, the opinion of the Chairman will have to prevail and that amounts to a decision of one man and will have to be given effect to. As against such a decision of one man, however competent he may be, Section 23 provides for no appeal. It states :—

"No appeal or application for revision shall lie against any order passed by a board."

I do not think there is any decision regarding the recovery of money as in the Civil Procedure Code. I think this bill requires some serious thought.

As regards the formation of boards themselves, there are so many things which can be said. Of course this is a matter for the Select Committee.

One more thing. The procedure which will be adopted by the boards will be according to the civli court procedure. That means that the Chairman must know something of the Civil Procedure Code. These are some of the things and there is also another thing. There is a section where lawyers are not allowed ordinarily to appear and defend the parties.

**Mr. D. H. CHADRASEKHARAIYA.**—They are. allowed.

**Mr. H. SIDDAIYA.**—It is with permission. The Chairman will not allow a lawyer to defend the case of the defendant. I think this is a thing which will have to be looked into.

There is also another defect in this bill. The bill fixes the minimum amount of debt of a person to get relief under it, at Rs. 100. It does not fix the maximum amount of debt. When the maximum is not fixed, the question of appeal will have to be very seriously considered. All these and other matters have got to be considered by the Select Committee.

**Mr. K. CHENGALARAYA REDDY.**—Sir, I am sorry that a bill of this importtance has to be rushed through to this House owing to exigencies of time.

**Mr. PRESIDENT.**—This is only the first reading.

**Mr. K. CHENGALARAYA REDDY.**—We have established a different convention in this House, *viz.*, to discuss all major points while introducing the bill more or less as a sort of guidance to the Select Committee. Whatever it be, I rise to welcome this measure as a piece of legislation in the right direction to attack the problem of indebtedness that is so prevalent in this country. I am surprised to see my hon'ble friend Mr. Imam opposing this piece of legislation on grounds which I think after some consideration will not hold water. In the first place, he said tha a measure of this nature cannot be worked and it would not be beneficial to the people to whom it is intended to apply. To that my reply would be a mere statement of facts. A legislation of this type was introduced in the Central Provinces in 1933 and since then, some debt conciliation boards have been established. Up to the end of August 1934, these boards have settled debts amounting to 27·76 lakhs for 15·86 lakhs reducing the debts by 41 per cent. This is a mere statement of fact. The

experience gained in several other places where legislation of a similar character is introduced goes to show that legislation of this type is certainly beneficial for the people for whom it is intended. So I am not prepared to take the statement of my friend Mr. Imam as it stands.

He also asked whether legislation of this kind is going to benefit anybody. My emphatic reply to that is that the Agriculturist Relief Regulation has been of some benefit to the agriculturists and on similar grounds, this also will be useful to the people for whom it is intended.

I shall refer to only two or three points in this connection without going into the merits of the question.

*Mr. J. MAHOMED IMAM.—On a of information. In Bhavanagar and Central Provinces the amount was paid in cash. There is no such provision here.

Mr. K. CHENGALARAYA REDDY.—We are not concerned with that aspect of the matter now. The hon'ble member who introduced this bill read out an extract from the Agriculturists Relief Committee report wherein it is authoritatively stated that if a bill of this kind should give maximum benefit, a certain amount of compulsion has to be introduced. And the Committee recommended that at least in certain areas of the State to which legislation may be extended this scheme may be tried on a compulsory basis so that the working of the legislation may be watched and the results of that utilised for taking any departure in this matter. That recommendation has not been approved by the Government and I would like to suggest that that particular recommendation of the committee, *viz.*, to try the scheme on a compulsory basis, may be seriously considered and that provision also should be incorporated in the legislation before us.

Secondly, the minimum limit of debt which has been fixed for it to come within the purview of this legislation is Rs. 100. I do not know whether that figure has been taken from the Central Provinces or the Madras Acts. I want to question the wisdom or the expediency of placing any limit like that especially in view of the fact that most of the agriculturists are people whose debts are perhaps in a majority of cases below Rs. 100. If you put a limit like that, it is a matter for consideration whether a majority of our people will not be denied the benefits of this measure. This is a point for consideration in the Select Committee.

The third point is as regards the agreement of amicable settlement, its registration and effect, referred to in Section 14. It says :—

"If the creditors to whom more than 50 per cent of the total amount of the debtor's debts is owing....."

The limit fixed there is 50 per cent, only in which case settlement should be reduced into writing and given effect to. But so far as I know, the percentage

that has been fixed in Central Provinces Bill and the Madras Bill is 40 per cent.

Mr. N. MADHAVA RAU.—In Madras I believe it is 50 per cent.

Mr. K. CHENGALARAYA REDDY.—In Cent al Provinces, it is 40 per cent. I do not know why this has been raised the draft bill before us. I would like to suggest that the percentage may be reduced on the lines found in the Central Provinces Bill.

There are some other minor points which have to be considered. Owing to exigencies of time, it is not possible to go into them. I whole-heartedly welcome this measure as being one in the right direction and in the confidence that after some experience is gained in the working of this Regulation, more progressive steps will be taken to relieve the indebtedness of the people.

Mr. P. SUBBARAMA CHETTY.—I want to raise only one or two points. The minimum amount fixed in the bill is Rs. 100. In the Representative Assembly, it was suggested that it may be reduced to Rs. 50. Also the maximum limit has not been fixed.

Mr. PRESIDENT.—That point has been mentioned by the previous speaker.

Mr. P. SUBBARAMA CHETTY.—As regards the maximum a certain amount should be fixed. Is it going to apply to all cases of even debts of lakhs of rupees ? No. So a maximum of, say, Rs. 5,000 should be fixed.

So far as the objects of the bill are concerned, I do not think there is any differenc of opinion, but some doubts have been expressed as regards its practicability and this has been proved by the working of similar measure in the Central Provinces. That goes to show that it is workable. I would request that it should be made applicable not only to agriculturists but to all classes of people.

Mr. PRESIDENT.—Mr. Siddaiya did not want it just now.

Mr. P. SUBBARAMA CHETTY.—In rural parts, money lenders lend only to raiyat population. If at all any body is going to be affected, it is the village money lender. He will have borrowed money from the money lenders in the cities. Unless some provision is made for paying in cash, no good purpose will be served. No doubt in the closing speech of the Dewan in the Representative Assembly, it has been said that 25 lakhs have been lent by way of takavi and other loans.

(*Here the President wanted the speaker to conclude his speech.*)

Mr. D. H. CHANDRASEKHARAIYA.—In view of the importance of the measure, it is not proper to rush it through.

Mr. PRESIDENT.—We have got plenty of opportunities. There will be discussion in the Select Committee and there will be amendments.

*Mr. G. S. ABDUL HAMEED.—Mr. Imam was kind enough to express his own ideas about the bill. We want him to give an alternate scheme to bring

about debt canciliation. He also said that if 50 per cent of the amount is reduced, it should be paid in cash. If so, many money lenders would be quite glad to accept it I do not think banking institutions will accept it.

The other point is that the bill must be made applicable to the whole of the Mysore State. It is a pity that Mr. Imam is not an agriculturist. He is neither an agriculturist nor a coffee planter.

**Mr. PRESIDENT.**—The question is :—

"That the Bill published under Rule 8 of the Rules of Business be read in Council."

*The motion was adopted.*

(*b*) *Motion that the Bill be referred to a Select Committee.*

**Mr. A. V. RAMANATHAN.**—Sir, I beg to move that the bill be referred to a select committee composing of the following members :—

1. The First Member of Council (*Chairman*).
2. Mr. H. B. Gundappa ;
3. Mr. P. Subbarama Chetty ;
4. *Rajacharita visarada Rao Sahib* C. Hayavadana Rao ;
5. Mr. K. T. Bhashyam Aiyangar ;
6. Mr. J. Mahomed Imam ;
7. *Rajasabhabhushana* K. R. Srinivasa Iyengar ;
8. Mr. A. R. Nagesvara Aiyar ;
9. Mr. K. V. Anantaraman ;
10. Mr. M. G. Mehkri ;
11. Mr. B. T. Keshava Iyengar ;
12. Mr. S. Abdul Wajid.

**Mr. M. VENKATANARANAPPA.**—Sir I beg to second the motion.

**Mr. PRESIDENT.**—The Question is :—

That the Bill be referred to a Select Committee composing of the members mentioned above.

*The motion was adopted.*

Appendix F G—1]

SUBJECT.....

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Section

File No.

Serial No.

*Diary No. of letter replied to*.....

General and Revenue Secretariat

( )

*the* *193*

Date of issue 16/11/35

Signed by M. C. Hyde

List of enclosures.....

Copied by .....

Examined by.....

No. P 3228 Sec 1

To The Revenue Authorities

Sir,

I am directed to forward herewith copy of G.O No R 2652-723-L.R 208-34-4 dated 30-11-35 and to request you to favour Government with the names of the persons of the High Court mentioned in the schedule of Court Commissioners mentioned by Government in para 14 of the above Despatch.

I have etc

for Chief Secretary

WD 03601—GPB—30,000—23-9-35

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. P 3228

Dated, Bangalore, 13th Novr. 1935

From -

The *Chief Secretary to the Government of His Highness the Maharaja of Mysore.*

To

The Registrar,

High Court of Mysore, Bangalore.

Sir,

I am directed to forward herewith copy of G.O.No.R. 2652-723/L.R.208-34-4 dated 30th October 1935 and to request you to favour Government with the views of the Hon'ble the Judges of the High Court in regard to the scheme of debt conciliation indicated by Government in para 14 of the said order.

I have the honour to be,
Sir,
Your most obedient servant,

For Chief Secretary to Government.

bnl. 2

Serial No.

Remarks of the Govt's conference ~~at~~ in Simla in June.

The first resolution recommends that legislation may be introduced for fixing the maximum rate of interest at 12%

The second relates to the scheme of the Conciliation Board & requests the early introduction of the scheme in all the Provinces.

Re 1. the question of introducing a money lenders Bill is under consideration

Re 2. High Courts have been consulted on the scheme & their reply is awaited

Secy. for favour of perusal & orders.

Sec. 20/1/36 Resolutions of the Govt of India

C 21/1/36

Note.—Contn. Sheet.

WD 03594—GPB—30,000—13-7-35

Extract 4 4328/P

5 5079 of 35

R. O. C. No. 214
D1 Dis. 35-36

**HIGH COURT OF MYSORE,**
**Public Office Buildings, Cubbon Park,**

*Bangalore,* 11th February *1936*.

12

FROM

A. Sundararaja Rao, Esq., B.A., B.L.,
~~S. Venkata Ranga Iyengar, Esq., B.A., LL.M.,~~
*Registrar, High Court of Mysore.*

CHIEF SECRETARY, 13 FEB. 1936

A.V. Ramanathan, Esq., B.A.,
Chief Secretary to the Government of Mysore,
Bangalore.

SIR,

With reference to your letter No.P.3228, dated 13th/14th November 1935, forwarding a copy of G.O. No.R.2652-723/L.R.208-34-4, dated 30th October 1935, and requesting the views of the Judges of the High Court in regard to the scheme of debt conciliation outlined by the Government in para 14 of their Order, I am directed to state that the Judges understand that no opinion is required from them regarding the policy of establishing Debt Conciliation Boards and that they find it difficult to express useful opinions regarding the machinery of the scheme until more details are given. But I am desired to convey their opinions and suggestions on a few points in the hope that these may be of some assistance to the Government.

The Judges are strongly of opinion that the proposed conciliation Boards should be in no way part of the Judicial Department and should in no sense be Courts subject to the superintendence or revisional powers of the High Court. They understand that the Government have rejected the proposal of the Committee that application for the assistance of the Boards should be made to the Civil Courts. The Committee's proposal in that respect appears to the Judges most undesirable, as, if the Court is to exercise any discretion in deciding what cases are suitable for the Board, that will involve judicial inquiry subject to strict procedure and revision such as the scheme is intended to avoid. When Boards are established applications for their assistance should be made direct to them. Except in regard to

the execution of final orders of the Boards the Courts and the Boards should be kept entirely apart. The Boards are to have executive functions in raising loans and other matters. In exercising such functions the Boards cannot be treated as Courts. And throughout their activities it is desirable that the Boards should not be trammelled by the strict procedure of Courts. Nor should their proceedings be subject to revision by the High Court. If they were so, legal procedure and technicalities could not be shut out, proceedings would be prolonged and complicated, and the atmosphere of friendly and practical negotiation and accommodation would be destroyed and that of litigation reintroduced. But the work of the Boards must be put under some supervision and control for administrative and other reasons, which can be provided by the Revenue Commissioner and Deputy Commissioner. Indeed the work of the Boards is likely to be best done with the help of and in touch with the local executive officers of the Revenue Department; and that Department also can provide the machinery for serving summonses, notices, etc. (2)

3. But the Boards will have questions of fact to decide and sometimes questions of law to consider. It appears desirable that the Chairman-especially until with experience methods of work and procedure have been to some extent standardized-- should be officers of some judicial experience. The High Court would have no objection to half-a-dozen or so of the officers of the Judicial Department being seconded for employment as Chairmen of the experimental Boards. (3)

4. In the opinion of the Judges it should be provided that after intimation that an application regarding a debt is before a Board no Court shall entertain a suit for the recovery of the debt, and any pending suit for its recovery shall be stayed, until a further intimation that the Board is able to make no final order in regard to the debt. And provision should be made to save limitation of civi remedies in such circumstances.

5. As it is proposed that the Courts shall execute final orders of the Boards as decrees, but only after unsuccessful attempts have been made to raise funds for paying off the debts or for their recovery by the Revenue Department, it must be provided that the Chairman shall give a certificate when any final order has become ripe for execution as a decree.

6. It does not appear to the Judges desirable that the Boards as well as the Courts should exercise (6) insolvency jurisdiction. Insolvency jurisdiction involves many matters which cannot be arranged by consent and in which appeals should be allowed and regular procedure followed. It would be inconveni to have two parallel but distinct tribunals exercisin concurrent insolvency jurisdiction. The proposals of the Committee in regard to insolvency appear to be sufficient.

I have the honour to be,
Sir,
Your most obedient servant,

Registrar.

MVK/2.

A Bill to make provision for the setting up of Debt Conciliation Boards in Mysore to relieve agriculturists from indebtedness.

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Preamble.

Whereas it is expedient to relieve agriculturists from indebtedness by amicable settlement between them and their creditors;

It is hereby enacted as follows:--

Short title, extent and commencement.

1. (1) This Regulation may be called the Mysore Debt Conciliation Regulation 193

(2) It extends to the whole of Mysore.

(3) It shall come into force in such areas and on such dates as the Government may, by notification in the Official Gazette direct.

Definitions.

2. In this Regulation unless there is anything repugnant in the subject or context -

(a) the expressions "holder","holding" and "village" shall have the meanings assigned to them in the Mysore Land Revenue Code; 1888.

C.P. Acts "tenant"

(b) "agriculture" includes horticulture, the use of land for any purpose of husbandry inclusive of the keeping or breeding of live stock, poultry or bees, sericulture and the growing of fruits, vegetables and the like;

(c) "Board" means a Debt Conciliation Board established under sub-section (1) of section 3;

(d) "creditor" means a person to whom a debt is owing and includes a co-operative society;

(e) "debt" includes all liabilities owing to a creditor, in cash or kind, secured or unsecured, whether payable under a decree or order of a civil court or otherwise, whether mature or not, but shall not include arrears of wages, land revenue or anything recoverable as an arrear of land revenue rent as defined in the Mysore Land Revenue Code, 1888, or any money for the recovery of which a suit is barred by limitation;

(f) "debtor" means a person

(i) who earns his livelihood mainly by agriculture or who is a holder, whether he cultivates the land personally or otherwise, and

(ii) whose debts exceed one hundred rupees.

(g) "prescribed" means prescribed by rules made under this Regulation;

(h) "secured debt" includes mortgage debt or any debt for which there is security, lien or charge on immovable property created by deed, statute or otherwise;

(i) "secured creditor" means a creditor who holds for his debt a security by way of mortgage, lien or charge on immovable property created by a deed, statute or otherwise.

Establishment of Debt Conciliation Boards.

3. (1) The Government may establish a Debt Conciliation Board for any district or part of a district. Such Board shall consist of a Chairman and two members appointed by the Government, which may, for reasons to be recorded in writing, cancel any appointmen

or dissolve any Board.

(2) The Chairman and every member of a Board so established shall be appointed for a term not exceeding three years. Such Chairman or member may, on the expiration of the period for which he has been appointed, be again appointed for a further term not exceeding three years.

(3) A Board shall have such quoram as may be prescribed.

(4) Where the Chairman and members of a Board are unable to agree, the opinion of the majority shall prevail. Where the Board is equally divided, the Chairman shall have a casting vote.

(5) When a Board is dissolved or otherwise ceases to exist, the Government may at any time establish another Board for the area for which the former board was established and may declare the board newly established to be the successor in office of the board which has ceased to exist and such board shall exercise all the powers under the Regulation.

Application for settlement between debtor and his creditors.

4. (1) A debtor may make an application for the settlement of his debts to the board established for the local area within which he ordinarily resides, or if no board has been established for that local area, to the board established for any local area in which he holds immovable property, if any, but he shall not apply to more than one board.

Madras Act

(2) Unless the debtor has already made an application under sub-section (1), any of

his creditors may make an application to a board to which the debtor might have applied under that sub-section.

(3) If applications for the settlement of the debts of the same debtor are made to more than one board, such applications shall, in accordance with rules made under this ~~xxx~~ Regulation, be transferred to and dealt wi by one board as one single application.

Verification of application.

C. P. Acts Varies

5. Every application to a Board shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1911, for signing and verifying plaints.

Particulars to be stated in application.

C. P. J Varies. Acts.

6. (1) Every application made by a debtor to a Board shall contain the following particulars, namely:-

(a) a statement that the debtor is unable to pay his debts;

(b) the place where he resides;

(c) the amount and particulars of all claims against him together with the names and residences of his creditors and, in the case of a creditor who is a minor or a lunatic, the name of his guardian or the person in whose charge the property of such creditor is, so far as they are know to, ~~xx~~ or can, by the exercise of reasonable care and diligence, be ascertained by him; and

(d) particulars of the debtor's property, both movable and immovable (including claims due to him), a specification of the value thereof and of the places where

the same may be found and details of any mortgage, lien or charge subsisting thereon.

(2) Every application made by a creditor shall contain the following particulars, viz.,

(a) the place where the debtor resides; and

(b) the amount and particulars of his claim against such debtor.

Rejection on application.

7. The application shall be rejected if it does not comply with any of the requirements mentioned in sections 5 and 6.

The rejection of an application under this section shall not preclude the applicant from making a fresh application.

Procedure on application.

8. (1) On receipt of an application under section 4, the board shall unless it rejects the application under section 7 pass an order fixing a date and place for hearing the application.

(2) Notice of the order under subsection (1) shall be sent by registered post to the debtor and creditors.

(3) If the application is made by a creditor, the debtor shall, on his appearance, furnish the particulars mentioned in sub-section (1) of section 6 and notice shall be sent to all the creditors specified by him.

Dismissal of application.

9. An application under section 4 may be dismissed by the board at any stage of the proceedings -

(a) if, for reasons to be stated in writing, the board does not consider it desirable or practicable to effect a settlement of

debts; or

(b) if, in the opinion of the board, the applicant fails to pursue his application with due diligence;

Provided that, when such applicant is a creditor, the board, instead of ~~dismissing~~ dismissing such application, may substitut the debtor or any other creditor, who shal thereafter be deemed to be the applicant for the purposes of this Regulation; or

(c) if the application includes a claim which in the opinion of the board, is collusive and intended to defraud any creditor.

Notice calling upon creditors to submit statements of debts

10. (1) If, after examining the debtor, it is in the opinion of the board desirable to attempt to effect a settlement between him and his creditors, a notice shall be issued and served or published in the manner prescribed, calling upon every creditor of the debtor to submit a statement of debts owed to such creditor by the debtor. Such statement shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, ~~1908~~ 1911, for signing and verifying claims and shall be submitted to the board within two months from the date of service or publication of the notice as the case may be;

Madras Act

Provided that, if the board is satisfied that any creditor was, for good and sufficient cause, unable to comply with such directions, it may extend the period for the submission of his statement of the debt owed

to him.

(2) subject to the provisions of sub-section (3) every debt of which a statement is not submitted to the board in compliance with the provisions of sub-section (1) shall be deemed for all purposes and all occasions to have been duly discharged.

(3) If a creditor proves to the satisfaction of the board or a civil court that the notice was not served on him or that he had no knowledge of the publication thereof or that for some other sufficient reason, he was unable to submit the statement, the board or court may revive the debt, if the creditor files an application in that behalf within two months after he becomes aware of the proceedings taken under this section;

Provided that a creditor shall not be entitled to apply under this sub-section to the board and to a civil court simultaneously or to apply to either the board or a civil court after having applied to the other.

Procedure on submission of statement of debts.

**11.** (1) Every creditor submitting a statement of the debts owed to him in compliance with a notice issued under sub-section (1) of section 10 shall furnish, along with such statement full particulars of all such debts and shall at the same time produce all documents, including entries in books of account on which he relies to support his claims, together with a true copy of every such document.

C.P. Madras Act

(2) The board shall, after marking for the

purpose of identification every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor.

(3) If any document which is in the possession or under the control of the creditor is not produced by him as required by subsection (1) the document shall not be admissible in evidence against the debtor in any suit brought by the creditor or by any person claiming under him for the recovery of the debt;

Provided the board or the court shall have power to excuse for valid reasons any default or delay in producing the document and to grant reasonable time for producing the same in any proceeding pending before it.

Madras Act

~~Board to endeavour amicable settlement~~.

Power of Board to decide dispute as to the existence amount of debts or assets.

12. (1) The Board shall call upon the debtor and each creditor respectively to explain his case regarding each debt.

(2) If there is a dispute as to the existence or the amount of the debt due to any creditor or the assets of any debtor the board may decide the matter after taking such evidence as may be adduced by all the parties concerned and such decision shall be binding on all parties in all proceedings before the board;

Provided that a decree of a civil court relating to a debt shall be conclusive evidence as to the existence and amount of the debt.

(3) The board shall prepare a complete

schedule of the creditors and of the ~~xhe~~ assets and liabilities of the debtor.

Power of Board to require attendance of persons and production of documents, ~~and to receive evidence~~.

13. (1) Subject to rules ~~and~~ made under this Regulation, a board may exercise all such powers connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred on a civil court by the Code of Civil Procedure, 1911, ~~and to rules made under section~~ .... ~~xxBxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~

CRP Madras Act 5

(2) Any person present may be required by a board to furnish any information or to produce any document then and there in his possession or power.

~~(3) The Board shall not, however~~, exercise ~~insolvency jurisdiction~~.

Agreement of amicable settlement, its registration and effect.

14. (1) If the creditors to whom more than 50 percent of the total amount of the debtor's debts is owing come to an amicable settlement with the debtor, such settlement shall forthwith be reduced to writing in the form of an agreement recording the amounts payable to such creditors and the manner in which and the times at which they are to be paid. Such agreement, if considered equitable by the board, shall be read out and explained to the parties concerned, and shall be signed or otherwise authenticated by the Board and the parties who have agreed to the amicable settlement:

Provided that, when a co-operative society is one of such creditors, no settlement, in so far as it affects the debts owing to

such society, shall be valid without the previous approval in writing of the Registra of Co-operative Societies in Mysore.

(2) An agreement made under sub-section (1) shall, within thirty days from the date of the making thereof, be registered under the Mysore Registration Regulation, 1903, by the Chairman of the Board in such manner as may be prescribed and it shall then take effect as it if were a decree of a civil court, and be executable as such.

(3) For the purpose of the registration of an agreement under sub-section (2), the Chairman of the Board shall be deemed to be an officer of Government empowered to execute such agreement within the meaning of Section 88 of the Mysore Registration Regulation, 1903.

C.P & M Trans Acts

(4) If, after the making of an agreement under sub-section (1), any debt is revived by the board or a civil court under sub-section (3) of section 10, the agreement and all proceedings taken in pursuance thereof shall stand cancelled; the application unde section 4 shall be deemed to have been recei ved in the office of the board on the date o such reviver; and all the provisions of this Regulation shall apply in respect of the application accordingly.

Properties exempt from attachment not to be taken into account.

Mad Agt

15. In any scheme of debt conciliation unde this Regulation such properties as are exempt exempt from attachment under the Code of Civil Procedure, 1911, shall not be taken

into account and shall be left to the judgment debtor free from any liability for his debts.

Maximum amount allowable in satisfaction of a debt.

16. In any scheme of debt conciliation under this Regulation, no creditor shall be allowed a greater amount in satisfaction of both principal and interest than ~~than~~ twice the amount of the principal and if the debt was incurred before the first day of ~~June, 1933,~~ twice the amount due on the said date.

Madras Act

Power of board to dismiss application.

17. If no amicable settlement is arrived at under sub-section (1) of section 14 within 12 months from the date of the application under section 4, the board shall dismiss the application.

C.P. & Madras Acts

Recovery of sums due under agreement.

18.(1) If a debtor defaults in paying any amount due in accordance with the terms of an agreement registered under sub-section (2) of section 12, such amount shall be recoverable as an arrear of land revenue on the application of the creditor made to the Deputy Commissioner within ninety days from the date of default.

C. P. Act

(2) Where the Deputy Commissioner fails to recover as an arrear of land revenue any part of such amount, he shall certify that it is irrecoverable and thereupon the ~~agreement~~ agreement shall cease to subsist.

(3) Where an agreement ceases to subsist, any amount which was payable under such agreement but has not been paid shall be ~~so~~ recoverable as if a decree of a civil court

had then been passed for its payment.

Power of Board to dismiss

Grant of certificate by Board in respect of certain debts.

19. (1) Where, during the hearing of any application made under section 4, any creditor refuses to agree to an amicable settlement, the board shall, if it is of opinion that the debtor has made such creditor a fair offer which the creditor ought reasonably to accept, grant the debtor a certificate, in such form as may be prescribed in respect of the debts owed by him to such creditor.

Madras Act

The board, in coming to a decision whether the offer made is fair or not, may take into consideration

(i) the fall or rise in the value of land and its produce, in the locality;

(ii) the amount of consideration actually received;

(iii) the reasonableness of the rates of interest;

(iv) the onerous conditions, if any, subject to which the loan was granted;

(v) whether at any time, the creditor or the debtor was offered settlement of the debt in full or part and if so what the terms were; and

(vi) any other particulars which the board thinks it desirable to take into account.

Power of court to disallow cost or interest.

(2) Where any creditor sues in a civil court for the recovery of a debt in respect of which a certificate has been granted under sub-section (1), the court shall, notwithstanding the provisions of any law for the time being in force, not allow the plaintiff any costs in such suit, or any interest on the debt after the date of such

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what the terms were: an

vi) any other particulars
thinks it desirable

certificate in excess of simple interest at 6 per cent per annum on the principal amount due on the date of such certificate.

Decrees in suits ~~after~~ after registration of agreement not to be executed.

(3) Where after the registration of an agreement under sub-section (2) of section ~~147~~, any unsecured creditor sues for the recovery of a debt (other than a debt incurred subsequent to such agreement) in respect of which a certificate has been granted under sub-section (1) or any creditor sues for the recovery of a debt incurred after th date of such agreement, any decree passed in such suit shall, notwithstanding anything contained in the Code of Civil Procedure, 19 || , not be executed as against the assets if any, set apart in the agreement for the satisfaction of the agreed debts until all amounts recorded as payable under such agreement have been paid.

C.P. + Madras Acts

Bar of Civil Suits.

20. No civil ~~suit~~ Court shall entertain-

(a) any suit in respect of

(i) any matter pending before a Board, or

(ii) the validity of any procedure or the legality of any agreement made under this Regulation; or

(iii) the recovery of any debt recorded as wholly or partly payable under an agreement registered under sub-section (2) of section ~~14~~ from any person who, as a debtor, was party to such agreement whether such agreement is subsisting or not or

C.P. + Madras Acts

(iv) the recovery of any debt which has been deemed to have been duly discharged under sub-section (2) of section ~~(8)~~ 10 except a debt which is revived under the proviso to that sub-section;

(b) any application to execute a decree the execution of which is suspended under sub-section (3) of section ~~15.~~ ~~16~~ 19

Avoidance of certain transfers of debtor's property.

C.P + Madras Acts

21. Every transfer of property made, with intent to defeat or delay the creditors of the debtor, after an application has been made to a Board under section 4 and until the agreement registered in respect of such application has ceased to subsist, shall be voidable at the option of any creditor so defeated or delayed.

Alienation made with sanction of board not to be considered as a fraudulent preference.

Madras Act

22. Any alienation of land for a fair price made with the sanction of the board in pursuance of or to carry out the ~~agreement~~ agreement mentioned in section 14 shall not be considered as a fraudulent preference under the Mysore Insolvency Regulation 1925 nor shall such alienation be voidable under section 53. of the Transfer of Property Regulation 1918.

Bar of appeal or revision.

C.P & Madras Acts

23. No appeal or application for revision shall lie against any order passed by a Board.

Power of Board to review its order.

C P & Madras Act

24. A Board may, on the application from any person interested made within ninety days of the passing of an order, review any order passed by it and pass such order in reference ~~thereto~~ thereto as it thinks fit

Provided that no order shall be varied or reversed unless notice has been given to the persons interested to appear and be heard in support of such order.

Appearance of party before Board by agent but not by legal practitioner.

Madras Act

25. In any proceedings before a Board, any party may ~~be permitted to~~ appear ~~by an agent authorized in writing but not~~ in person or with the permission of the Board by a legal practitioner or an agent authorized in writing

Suspension of pending application or suit.

Madras Act

26. When an application has been made to a Board under section 4, any suit or other proceedings then pending before a civil court in respect of any debt for the settlement of which application has been made shall be suspended until the Board has dismissed ~~posed of~~ the application:

C.P. Act (varied in Orissa in Rs. 100, etc.)

Provided that no decree, whether passed before the date of such application or passed in the suit after revival, for the recovery of an unsecured debt in respect of which a certificate has been granted under sub-section (1) of section 18, shall be executed until all amounts recorded as payable under an agreement registered under sub-section (2) of section 14 have been paid or such agreement has ceased to subsist.

Submission of reports by Boards regarding sums due to Government.

C.P. & Madras Act

27. Where in the course of an inquiry into an application made under section 4 a Board finds that there is any sum owing to Government on account of loans advanced under the Land Improvement Loans Regulation 1890 or otherwise, the Board shall report this fact through the Deputy Commissioner

to the Revenue Commissioner in Mysore.

Computation of period of limitation for suits and proceedings.

28. (1) In calculating the period of limitation for any suit filed in, or proceedings before, a civil court for the recovery of a debt which was the subject of any proceedings under this ~~Act~~ Regulation, the time during which such proceedings were pending as well as the time taken for the obtaining of certified copies of the order of the Board shall be excluded.

Add clause(2) as provided in Madras Act

(2) The period during which proceedings under this ~~Act~~ Regulation have been pending including the actual period fixed in the agreement for payment of all the debts shall, in all suits filed or proceedings taken, in civil courts to recover debts, be excluded from computation under section ~~48~~ 48 of the Code of Civil Procedure, 19.11. or under the Mysore Limitation Regulation 1911.

Members of Board deemed to be public servants.

29. The members of a Board shall be deemed to be public servants within the meaning of the Indian Penal Code as ~~it is~~ in force in Mysore.

C P & Madras Act 5

Power to make rules.

30. In addition to any power specially conferred by this Regulation, the Government may make rules -

C P & Madras Act 5

(a) prescribing the quorum for, and regulating the procedure before a Board;

(b) prescribing the manner in which notices shall be issued and served or ~~xxxx~~ published under sub-section (1) of section 10;

(c) prescribing the charges to be made by a

board for anything done under this Regulation and the persons by whom and the manner in which such ~~xxxxxxxxx~~ charges shall be paid;

(d) prescribing the records to be kept and the returns to be made by a Board;

(e) prescribing the allowances, if any, to be paid to the Chairman and ~~xxx~~ member of a Board;

(f) regulating the power of a Board to summon parties and witnesses under section 13 ~~12~~ and the grant of expenses to witnesses;

(g) prescribing the place at which and the manner in which an agreement shall be registered under sub-section (2) of section ~~12~~ 14.

(h) prescribing the form of certificate to be granted under sub-section (2) of section 18 or sub-section (1) of section 19; and

(i) generally, for the purpose of carrying into effect the provisions of this Regulation.

General provisions regarding rules.

~~XXX~~ 31. (1) All rules for which provision is made in this Regulation shall be made by Government and shall be consistent with this Regulation.

(2) All rules shall be subject to the condition of previous publication.

(3) In making any rule, Govern-

Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees, and, where the breach is a continuing one, with further fine which may extend to ten rupees for every day after the first during which the breach has been persisted in.

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STATEMENT OF OBJECTS AND REASONS.

The Committee appointed by the Government in 1934 to consider measures of relief to the agriculturists to tide over the economic depression, recommended, among other measures, the reduction of agricultural debts ~~with~~ by conciliation between the debtors and the creditors. In accepting the recommendation, Government have come to the conclusion that a scheme of debt conciliation on a voluntary basis may be introduced. For implementing this, the Government have proposed to introduce a Bill to make provision for the setting up of Conciliation Boards to relieve agriculturists' indebtedness on the lines of the Acts which have been passed in the Central Provinces and Madras. The main provisions of the Bill are as follows:--

This measure applies to agriculturists ~~and~~ who earn their living mainly by agriculture and whose debts exceed Rs. 100.

It provides for the appointment of Debt Conciliation Boards consisting of a Chairman and two members appointed by the Government who shall hold office for a period of three years.

Any creditor or debtor who wants the intercession of the Board may apply to it.

Notice is sent to the creditors and the debtor and the creditor are brought face

to face with each other.

The Board pursuades the parties to come to an amicable settlement. If the creditors to whom no less than 50 per cent of the debts are due and the debtors agree to a settlement, that agreement is recorded by the Board and registered and it has got the same effect as a decree of a civil court.

The amounts due under the agreement shall be recoverable by the Deputy Commissioner as an arrear of land revenue. If they are not so recovered, the amount may be recovered as if a decree of a civil court had been passed for its payment.

In case there is no settlement and the creditor is responsible for refusing to agree to an amicable settlement, the Board shall if it is of opinion that the debtor has made a fair offer, grant the debtor a certificate in respect of the debts owed by him to such creditor. If the creditor subsequently sues in a court for the recovery of a debt in respect of which a certificate has been granted, the Court shall not allow the creditor costs of suit or interest at more than 6 per cent after the date of such certificate.

Further if after the registration of an agreement any unsecured creditor sues for the recovery of a debt, any decree passed in such a suit shall not be executed as against assets until all the amount regarded as payable under such an agreement have been paid.

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Thus, even those creditors, who are not inclined to agree to an amicable settlement will be induced to agree, since otherwise they will not get any relief until all those who have agreed obtain relief. There are provisions in the Bill which act as deterrents to creditors who oppose the accommodation and as inducements to those who are helpful.

The juristiction of a civil court is barred in respect of any matter pending before the Board.

Any order passed by the Board will be final.

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## NOTIFICATION.

*No. 4703—L. C., Bangalore, dated 27th May 1936.*

Under Rule 8 of the Rules for the conduct of business of the Mysore Legislative Council, the accompanying Bill to make provision for the setting up of Debt Conciliation Boards in Mysore to relieve agriculturists from indebtedness is published for general information with the statement of objects and reasons.

By Order,

C. SUBRAHMANYA AIYAR,

*Secretary,*

*Mysore Legislative Council.*

**A Bill to make provision for the setting up of Debt Conciliation Boards in Mysore to relieve agriculturists from indebtedness.**

Preamble

Whereas it is expedient to relieve agriculturists from indebtedness by amicable settlement between them and their creditors;

It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Regulation may be called the Mysore Debt Conciliation Regulation 193—

(2) It extends to the whole of Mysore.

C. P Act S. 1.

(3) It shall come into force in such areas and on such dates as the Government may, by notification in the Official Gazette, direct.

Definition.

2. In this Regulation unless there is anything repugnant in the subject or context.

C. P Act S. 2.

(*a*) the expressions "holder," "holding," "tenant" and "village" shall have the meaning assigned to them in the Mysore Land Revenue Code, 1888;

(*b*) "agriculture" includes horticulture, the use of land for any purpose of husbandry inclusive of the keeping or breeding of live-stock, poultry or bees, sericulture and the growing of fruits, vegetables and the like;

(*c*) "Board" means a Debt Conciliation Board established under sub-section (1) of section 3;

(*d*) "creditor" means a person to whom a debt is owing and includes a co-operative society;

(*e*) "debt" includes all liabilities owing to a creditor, in cash or kind, secured or unsecured, whether payable under a decree or order of a civil court or otherwise, whether mature or not, but shall not include arrears of wages, land revenue or anything recoverable as an arrear of land revenue, rent as defined in the Mysore Land Revenue Code, 1888, or any money for the recovery of which a suit is barred by limitation;

(*f*) "debtor" means a person—

(i) who earns his livelihood mainly by agriculture or who is a holder, whether he cultivates the land personally or otherwise; and

(ii) whose debts exceed one hundred rupees.

(*g*) "prescribed" means prescribed by rules made under this Regulation;

(*h*) "secured debt" includes mortgage debt or any debt for which there is security, lien or charge on immovable property created by deed, statute or otherwise;

(*i*) "secured creditor" means a creditor who hold for his debt a security by way of mortgage, lien or charge on immovable property created by a deed, statute or otherwise.

Establishment of Debt Conciliation Boards.

3. (1) The Government may establish a Debt Conciliation Board for any district or part of a district. Such board shall consist of a Chairman and two members appointed by the Government, which may, for reasons to be recorded in writing, cancel any appointment or dissolve any Board.

(2) The Chairman and every member of a board so established shall be appointed for a term not exceeding three years. Such Chairman or member may, on the expiration of the period for which he has been appointed,

be again appointed for a further term not exceeding three years.

(3) A board shall have such quorum as may be prescribed.

(4) Where the Chairman and members of a board are unable to agree, the opinion of the majority shall prevail. Where the Board is equally divided, the Chairman shall have a casting vote.

(5) When a board is dissolved or otherwise ceases to exist, the Government may, at any time establish another board for the area for which the former board was established and may declare the board newly established to be the successor in office of the board which has ceased to exist and such board shall exercise all the powers under the Regulation.

Madras Act S.4.

Application for settlement between debtor and his creditors.

4. (1) A debtor may make an application for the settlement of his debts to the board established for the local area within which he ordinarily resides, or if no board has been established for that local area, to the board established for any local area in which he holds immovable property, if any, but he shall not apply to more than one board.

(2) Unless the debtor has already made an application under sub-section (1), any of his creditors may make an application to a Board to which the debtor might have applied under that sub-section.

(3) If applications for the settlement of the debts of the same debtor are made to more than one board, such applications shall, in accordance with rules made under this Regulation, be transferred to and dealt with by one board as one single application.

Madras Act S.5

Verification of application.

5. Every application to a board shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1911, for signing and verifying plaints.

Particulars to be stated in application

6. (1) Every application made by a debtor to a board shall contain the following particulars, namely :—

(*a*) a statement that the debtor is unable to pay his debts;

(*b*) the place where he resides;

C.P Act S.6

(*c*) the amount and particulars of all claims against him together with the names and residences of his creditors and, in the case of a creditor who is a minor or a

lunatic, the name of his guardian or the person in whose charge the property of such creditor is, so far as they are known to, or can, by the exercise of reasonable care and diligence, be ascertained by him ; and

(*d*) particulars of the debtor's property, both movable and immovable (including claims due to him), a specification of the value thereof and of the places where the same may be found and details of any mortgage, lien or charge subsisting thereon.

(2) Every application made by a creditor shall contain the following particulars, *viz.*,

(*a*) the place where the debtor resides ; and

(*b*) the amount and particulars of his claim against such debtor.

Rejection of application.

7. The application shall be rejected if it does not comply with any of the requirements mentioned in sections 5 and 6.

The rejection of an application under this section shall not preclude the applicant from making a fresh application.

Procedure on application.

8. (1) On receipt of an application under section 4, the board shall unless it rejects the application under section 7 pass an order fixing a date and place for hearing the application.

(2) Notice of the order under sub-section (1) shall be sent by registered post to the debtor and creditors.

(3) If the application is made by a creditor, the debtor shall, on his appearance, furnish the particulars mentioned in sub-section (1) of section 6 and notice shall be sent to all the creditors specified by him.

Dismissal of application.

9. An application under section 4 may be dismissed by the board at any stage of the proceeding.

(*a*) if, for reasons to be stated in writing the board does not consider it desirable or practicable to effect a settlement of debts ; or

(*b*) if, in the opinion of the board, the applicant fails to pursue his application with due diligence ;

Provided that, when such applicant is a creditor, the board, instead of dismissing such application, may substitute the debtor or any other creditor, who shall thereafter be deemed to be the applicant for the purposes of this Regulation ; or

(*c*) if the application includes a claim which, in the opinion of the board, is collusive and intended to defraud any creditor.

Notice calling upon creditors to submit statements of debts.

10. (1) If, after examining the debtor, it is in the opinion of the board desirable to attempt to effect a settlement between him and his creditors, a notice shall be issued and served or published in the manner prescribed, calling upon every creditor of the debtor to submit a statement of debts owed to such creditor by the debtor. Such statement shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1911, for signing and verifying claims and shall be submitted to the board within two months from the date of service or publication of the notice as the case may be ;

Provided that, if the board is satisfied that any creditor was, for good and sufficient cause, unable to comply with such directions, it may extend the period for the submission of his statement of the debt owed to him.

(2) Subject to the provisions of sub-section (3) every debt of which a statement is not submitted to the board in compliance with the provisions of sub-section (1) shall be deemed for all purposes and all occasions to have been duly discharged.

(3) If a creditor proves to the satisfaction of the board or a civil court that the notice was not served on him or that he had no knowledge of the publication thereof or that for some other sufficient reason, he was unable to submit the statement, the board or court may revive the debt, if the creditor files an application in that behalf within two months after he becomes aware of the proceedings taken under this section ;

Provided that creditor shall not be entitled to apply under this sub-section to the board and to a civil court simultaneously or to apply to either the board or a civil court after having applied to the other.

Procedure on submission of statement of debts.

11. (1) Every creditor submitting a statement of the debts owed to him in compliance with a notice issued under sub-section (1) of section 10 shall furnish, along with such statement full particulars of all such debts and shall at the same time produce all documents, including entries in books of account on which he relies to support his claims, together with a true copy of every such document.

(2) The board shall, after marking for the purpose of identification every original document so produced and vertifying the correctness of the copy, retain the copy and return the original to the creditor.

(3) If any document which is in the possession or under the control of the creditor is not produced by him as required by sub-section (1) the document shall not be admissible in evidence against the debtor in any suit brought by the creditor or by any person claiming under him for the recovery of the debt;

Provided that the board or the court shall have power to excuse for valid reasons any default or delay in producing the document and to grant reasonable time for producing the same in any proceeding pending before it.

Power of board to decide dispute as to the existence or amount of debts or assets.

12. (1) The Board shall call upon the debtor and each creditor respectively to explain his case regarding each debt.

(2) If there is a dispute as to the existence or the amount of the debt due to any creditor or the assets of any debtor the board may decide the matter after taking such evidence as may be adduced by all the parties concerned and such decision shall be binding on all parties in all proceedings before the board;

Madras Act S. 12

Provided that a decree of a civil court relating to a debt shall be conclusive evidence as to the existence and amount of the debt.

(3) The board shall prepare a complete schedule of the creditors and of the assets and liabilities of the debtor.

Power of board to require attendance of persons and production of documents.

13. (1) Subject to rules made under this Regulation, a board may exercise all such powers connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred on a civil court by the Code of Civil Procedure, 1911.

Madras Act S. 13

(2) Any person present may be required by a board to furnish any information or to produce any document then and there in his possession or power.

Agreement of amicable settlement, its registration and effect.

14. (1) If the creditors to whom more than 50 per cent of the total amount of the debtor's debts is owing come to an amicable settlement with the debtor, such settlement shall forthwith be reduced to writing in the form of an agreement recording the amounts payable to such creditors and the manner in which and the times at which they are to be paid. Such agreement, if considered

equitable by the board, shall be read out and explained to the parties concerned, and shall be signed or otherwise authenticated by the board and the parties who have agreed to the amicable settlement;

Provided that, when a co-operative society is one of such creditors, no settlement, in so far as it affects the debts owing to such society, shall be valid without the previous approval in writing of the Registrar of Co-operative Societies in Mysore.

(2) An agreement made under sub-section (1) shall, within thirty days from the date of the making thereof, be registered under the Mysore Registration Regulation, 1903, by the Chairman of the Board in such manner as may be prescribed and it shall then take effect as if it were a decree of a civil court, and be executable as such.

(3) For the purpose of the registration of an agreement under sub-section (2), the Chairman of the board shall be deemed to be an officer of Government empowered to execute such agreement within the meaning of section 88 of the Mysore Registration Regulation, 1903.

(4) If, after the making of an agreement under sub-section (1), any debt is revived by the board or a civil court under sub-section (3) of section 10, the agreement and all proceedings taken in pursuance thereof shall stand cancelled; the application under section 4 shall be deemed to have been received in the office of the board on the date of such revival; and all the provisions of this Regulation shall apply in respect of the application accordingly.

Properties exempt from attachment not to be taken into account.

15. In any scheme of debt conciliation under this Regulation such properties as are exempt from attachment under the Code of Civil Procedure, 1911, shall not be taken into account and shall be left to the judgment debtor free from any liability for his debts.

Maximum amount allowable in satisfaction of a debt.

16. In any scheme of debt conciliation under this Regulation, no creditor shall be allowed a greater amount in satisfaction of both principal and interest than twice the amount of the principal and if the debt was incurred before the first day of—twice the amount due on the said date.

Power of board to dismiss application.

17. If no amicable settlement is arrived at under sub-section (1) of section 14 within 12 months from the date of the application under section 4, the board shall dismiss the application.

Recovery of sums due under agreement.

18. (1) If a debtor defaults in paying any amount due in accordance with the terms of an agreement registered under sub-section (2) of section 14, such amount shall be recoverable as an arrear of land revenue on the application of the creditor made to the Deputy Commissioner within ninety days from the date of default.

C. P. Act S. 13.

(2) Where the Deputy Commissioner fails to recover as an arrear of land revenue any part of such amount, he shall certify that it is irrecoverable and thereupon the agreement shall cease to subsist.

(3) Where an agreement ceases to subsist, any amount which was payable under such agreement but has not been paid shall be recoverable as if a decree of a civil court had then been passed for its payment.

Grant of certificate by board in respect of certain debts.

19. (1) Where, during the hearing of any application made under section 4, any creditor refuses to agree to an amicable settlement, the board shall, if it is of opinion that the debtor has made such creditor a fair offer which the creditor ought reasonably to accept, grant the debtor a certificate, in such form as may be prescribed in respect of the debts owed by him to such creditor.

Madras Act S. 18.

The board, in coming to a decision whether the offer made is fair or not, may take into consideration—

(i) the fall or rise in the value of land and its produce, in the locality;

(ii) the amount of consideration actually received;

(iii) the reasonableness of the rates of interest;

(iv) the onerous conditions, if any, subject to which the loan was granted;

(v) whether at any time, the creditor or the debtor was offered settlement of the debt in full or part and if so what the terms were; and

(vi) any other particulars which the board thinks it desirable to take into account.

Power of court to disallow cost or interest.

(2) Where any creditor sues in a civil court for the recovery of a debt in respect of which a certificate has been granted under sub-section (1), the court shall, notwithstanding the provisions of any law for the time being in force, not allow the plaintiff any costs in such suit, or any interest on the debt after the date of such certificate in excess of simple interest at 6 per cent per annum on the principal amount due on the date of such certificate.

Decrees in suits after registration of agreement not to be executed.

(3) Where after the registration of an agreement under sub-section (2) of section 14, any unsecured creditor sues for the recovery of a debt (other than a debt incurred

subsequent to such agreement) in respect of which a certificate has been granted under sub-section (1) or any creditor sues for the recovery of a debt incurred after the date of such agreement, any decree passed in such suit shall, notwithstanding anything contained in the Code of Civil Procedure, 1911, not be executed as against the assets if any, set apart in the agreement for the satisfaction of the agreed debts until all amounts recorded as payable under such agreement have been paid.

Bar of Civil Suits.

20. No civil court shall entertain—

(*a*) any suit in respect of

(i) any matter pending before a board; or

(ii) the validity of any procedure or the legality of any agreement made under this Regulation; or

(iii) the recovery of any debt recorded as wholly or partly payable under an agreement registered under sub-section (2) of section 14 from any person who, as a debtor, was party to such agreement whether such agreement is subsisting or not; or

(iv) the recovery of any debt which has been deemed to have been duly discharged under sub-section (2) of section 10 except a debt which is revived under sub-section; (3) of that section.

(*b*) any application to execute a decree the execution of which is suspended under sub-section (3) of section 19.

Avoidance of certain transfers of debtor's property.

21. Every transfer of property made, with intent to defeat or delay the creditors of the debtor, after an application has been made to a board under section 4 and until the agreement registered in respect of such application has ceased to subsist, shall be voidable at the option of any creditor so defeated or delayed.

Alienation made with sanction of board not to be considered as a fraudulent preference.

22. Any alienation of land for a fair price made with the sanction of the board in pursuance of or to carry out the agreement mentioned in section 14 shall not be considered as a fraudulent preference under the Mysore Insolvency Regulation, 1925 nor shall such alienation be voidable under section 53 of the Transfer of Property Regulation, 1918.

Bar of appeal or revision.

23. No appeal or application for revision shall lie against any order passed by a board.

Power of board to review its order.

24. A board may, on the application from any person interested made within ninety days of the passing of an

order, review any order passed by it and pass such order in reference thereto as it thinks fit.

Provided that no order shall be varied or reversed unless notice has been given to the persons interested to appear and be heard in support of such order.

Appearance of party before board by agent by legal practitioner.

25. In any proceedings before a board, any party may appear in person or with the permission of the board by a legal practitioner or an agent authorised in writing.

Suspension of pending application or suit.

26. When an application has been made to a board under section 4, any suit or other proceedings then pending before a civil court in respect of any debt for the settlement of which application has been made shall be suspended until the board has dismissed the application.

Submission of reports by boards regarding sums due to Government.

27. Where in the course of an inquiry into an application made under section 4 a board finds that there is any sum owing to Government on account of loans advanced under the Land Improvement Loans Regulation 1890 or otherwise, the board shall report this fact through the Deputy Commissioner to the Revenue Commissioner in Mysore.

Computation of period of limitation for suits and proceedings.

28. (1) In calculating the period of limitation for any suit filed in, or proceedings before, a civil court for the recovery of a debt which was the subject of any proceedings under this Regulation the time during which such proceedings were pending as well as the time taken for the obtaining of certified copies of the order of the board shall be excluded.

(2) The period during which proceedings under this Regulation have been pending including the actual period fixed in the agreement for payment of all the debts shall, in all suits filed or proceedings taken, in civil courts to recover debts, be excluded from computation under section 48 of the Code of Civil Procedure, 1911 or under the Mysore Limitation Regulation, 1911.

Members of board deemed to be public servants.

29. The members of a board shall be deemed to be public servants within the meaning of the Indian Penal Code as in force in Mysore.

Power to make rules.

30. In addition to any power specially conferred by this Regulation, the Government may make rules—

(*a*) prescribing the quorum for, and regulating the procedure before a board;

(*b*) prescribing the manner in which notices shall be issued and served or published under sub-section (1) of section 10;

(*c*) prescribing the charges to be made by a board for anything done under this Regulation and the persons

by whom and the manner in which such charges shall be paid;

(*d*) prescribing the records to be kept and the returns to be made by a board;

(*e*) prescribing the allowances, if any, to be paid to the Chairman and members of a board;

(*f*) regulating the power of a board to summon parties and witnesses under section 13 and the grant of expenses to witnesses;

(*g*) prescribing the place at which and the manner in which an agreement shall be registered under sub-section (2) of section 14;

(*h*) prescribing the form of certificate to be granted under sub-section (2) of section 18 or sub-section (1) of section 19; and

(*i*) generally, for the purpose of carrying into effect the provisions of this Regulation.

General provisions regarding rules.

31. (1) All rules for which provision is made in this Regulation shall be made by Government and shall be consistent with this Regulation.

(2) All rules shall be subject to the condition of previous publication.

(3) In making any rule, Government may direc that a breach thereof shall be punishable with fine whicl may extend to fifty rupees, and, where the breach is a continuing one, with further fine which may extend to ter rupees for every day after the first during which th breach has been persisted in.

## Statement of Objects and Reasons.

The Committee appointed by the Government in 193 to consider measures of relief to the agriculturists to tid over the economic depression, recommended, among othe measures, the reduction of agricultural debts by conciliatio between the debtors and the creditors. In accepting th recommendation, the Government have come to the con clusion that a scheme of bebt conciliation on a voluntary basis may be introduced. For implementing this, th Government propose to introduce a Bill to make provision for the setting up of Conciliation Boards to relieve agri culturists' indebtedness on the line of the Acts which have been passed in the Central Provinces and Madras. The main provisions of the Bill are as follows:—

This measure applies to agriculturists who earn thei living mainly by agriculture and whose debts exceed Rs. 100.

It provides for the appointment of Debt Conciliation Boards consisting of a Chairman and two members appointed by the Government who shall hold office for a period of three years.

Any creditor or debtor who wants the intercession of the board may apply to it.

Notice is sent to the creditors and the debtor and the creditor are brought face to face with each other.

The board tries to persuade the parties to come to an amicable settlement. If the creditors to whom not less than 50 per cent of the debts are due and the debtor agree to a settlement, that agreement is recorded by the board and registered and it has got the same effect as a decree of a civil court.

The amounts due under the agreement if not paid, shall be recoverable by the Deputy Commissioner as an arrear of land revenue. If they are not so recovered, the amount may be recovered as if a decree of a civil court had been passed for its payment.

In case there is no settlement and the creditor is responsible for refusing to agree to an amicable settlement, the board shall, if it is of opinion that the debtor has made a fair offer, grant the debtor a certificate in respect of the debts owed by him to such creditor. If the creditor subsequently sues in a court for the recovery of a debt in respect of which a certificate has been granted, the court shall not allow the creditor costs of the suit or interest at more than 6 per cent after the date of such certificate.

Further, if after the registration of an agreement any unsecured creditor sues for the recovery of a debt, any decree passed in such a suit shall not be executed as against the assets of the debtor set apart in the agreement until all the amounts regarded as payable under such an agreement have been paid.

Even those creditors who are not inclined to agree to an amicable settlement will be induced to agree, since otherwise they will not get any relief until all those who have agreed obtain relief. There are provisions in the Bill which act as deterrents to creditors who refuse to be accommodative and as inducements to those who are helpful.

The jurisdiction of a civil court is barred in respect of any matter pending before the board.

Any order passed by the board will be final.

Printed by the Superintendent at the Government Press, Bangalore.

Appendix F G—1]

SUBJECT.....

.....

.....

Section

File No.

Serial No.

*Diary No. of letter replied to*.....

General and Revenue Secretariat

( )

*the* *193*

Date of issue.....17.10.36.....

Signed by Mr. A.S.R.....

List of enclosures.....

Copied by .....

Examined by.....

No. P 2532-6 1 2r.
41 Genl.

To

1) H. B. Gundalapur Esq B.A., B.L
2) P. Subbaramaiah Esq
3) Rajaharivilas Veerabhadra Rao Saheb C. Hayavadanarao Esq B.A., B.L
4) K. T. Bhashyam Iyengar Esq B.A., B.L
5) J. Mahomed Imam Esq B.A., B.L
6) Rajasabhabhushana Diwan Bahadur K. R. Srinivasa Iyengar M.A
7) A. R. Nageswara Iyer Esq B.A., B.L
8) K. V. Ananthanarayana Esq B.A
9) M. Venkatarao Esq B.A., L.T.
10) B. T. Narasinga Iyengar Esq B.A.

Members List is enclosed herewith

A meeting of the Select Committee appointed to consider the Debt Conciliation Bill will be held in the Chambers of the Hon'ble Members of

Council Public Offices

Buildings Bangalore dt 19th

on Tuesday the 10th December

1936, ~~at 6 P.M.~~.

Copy of the Minutes

with the R.A. & L.C. on

the Bill is hereunto

Sent for Reference.

B.O

15.10.

Secy to the Government.

Copy to P.A. to C.S.

1/ Office Branch

1/ A.C Office

DY

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

43

No P2532-41/Sec 1.

General and Revenue Secretariat,

*Dated Bangalore,.....19*

17

## OFFICIAL MEMORANDUM

487
15/6

Government of India [illegible] Treasure

General and Revenue Secretariat.

D 3203-11 Encl. Dated 14th September 1926.

To

The Secretary,
Committee for Debt Conciliation Bill.

Sir,

I am directed to forward herewith a copy of the draft report of the Select Committee on the Debt Conciliation Bill and to request you to kindly return it with your approval on or before the 18th instant.

I have the honor to be,
Sir,
Your most obedient servant,

Secretary to the Committee.

We, the Members of the Select Committee to which the Debt Conciliation Bill was referred, have considered the several clauses of the Bill and have now the honor to submit this our Report:--

Clause 2.- In sub-clause (e), after the word 'otherwise' the word 'and' may be inserted.

Clause 10.- We consider that for sub-clauses (2) and (3) the following sub-clause may be substituted:--

"(2). Every debt of which a statement is not submitted to the Board in compliance with the provisions of sub-section (1) shall be deemed for all purposes and all occasions to have been duly discharged;

"Provided that, if a creditor proves to the satisfaction of the Board or a Civil Court that the notice was not served on him or that he had no knowledge of the publication thereof or that for some other sufficient reason he was unable to submit the statement, the Board or court may revive the debt, if the creditor files an application in that behalf within 2 months after he becomes aware of the proceedings taken under this Section;

"Provided further that a creditor shall not be entitled to apply under this sub-section to the Board and to a civil court simultaneously or to apply to either the Board or a civilcourt after having applied to the other."

Clause 14.-We consider that the rights of a secured creditor should remain unaffected when he does not agree tothe settlement and we therefore recommend that the following additional proviso be addedto sub-clause (1) of this clause:

"Provided further that when a secured creditor does not agree to the settlement, such settlement shall not affect his rights to proceed against the secured property."

The other changes are more or less verbal

In view of the change made in clause 10, the words and figure "sub-section (3)" in sub-clause (4) of this clause may be changed into "sub-section (2)".

Clause 30.- Afterthe word "rules" in the second line of this clause,the words "not inconsistent with this Regulation" may be added.

Clause 31.- Sub-clause (1) may be deleted and sub-clauses (2) and (3) re-numbered as (1) and (2).

After the word "rules" in sub-clause (1) as re-numbered, the words "made by Government under Section 30" may be added.

In sub-clause (2) as re-numbered, forthe last words beginning with the words "after the first" the following may be substituted:

"during which the breach continues after the first breach."

As the changes recommended by us do not affect the principle of the bill ~~are mostly verbal~~, we recommend that the bill as amended need not be published in the Gazette.

Dissenting note



In Clause 2 (f) of the Bill, the word debtor is de ed as meaning a person,

(i) Who earns his livelihood mainly by agriculture or who is a holder, whether he cultivates the land personally or otherwise, and

(ii) Whose debts exceed one hundred Rupees.

The object of the Bill as stated in the preamble is to relieve agriculturists from indebtedness and the statement of objects and reasons attached to the Bill makes it clear that "the measure - applies to agriculturists who earn their living mainly by agriculture". But the use of the alternative word 'or' underlined by me above in Sub Clause (i) will make the Bill applicable not only to persons whose main profession is agriculture but also to any holder of land, however small his holding and whether he makes his living mainly by agriculture or not. With this definition of 'debtor' any banker, trader, contractor or Government officer having debts to the extent of several thousands or lakhs of Rupees may have himself brought within the definition by purchasing a few guntas of land and getting himself registered as the holder thereof and may claim to have the provisions of the Bill applied to him. As I have pointed out above, the Bill was not intended to apply to such cases; and I do not consider either necessary or desirable to have such cases brought within the purview of the Bill. I would therefore suggest that the word 'or' may be replaced by 'and'; or, if it is intended (which I doubt very much) that the Bill should be applicable also to agricultural labourers who do not hold lands, the words 'and includes' may be substituted for 'or who' in Sub Clause (i) quoted above.

(2) I am of opinion that besides fixing a minimum limit for the debts, which may be dealt with under the Bill, it is very desirable to prescribe also a maximum limit which I think may be fixed at - Rs. 10,000/-. This may be done by the addition of the words "and does not exceed Rs. 10,000/-" at the end of Sub Clause (ii) quoted above.

18/11/36

Government of His Highness the Maharaja of Mysore

General and Revenue Secretariat

P3203-11/Sec/ Dated 14th November 1936.

From

The Secretary,
Committee for Debt Conciliation Bill.

To

B.T.Kesavaiengar, Esq., B.A.,

Sir,

I am directed to forward herewith a copy of the draft report of the Select Committee on the Debt Conciliation Bill and to request you to kindly return it with your approval on or before the 18th instant.

I have the honor to be,
Sir,
Your most obedient servant,

Secretary to the Committee.

*Postal Address*—Post Box No. 5.
*Telephone No. 221.*

*Tel. Address*—"Excomr.," Bangalore.

GOVERNMENT OF MYSORE.

EXCISE DEPARTMENT

2969/36
P

IMMEDIATE.

No. 61-863/36.37

ENCLS. one

OFFICE OF THE EXCISE COMMISSIONER IN MYSORE.

*Dated Bangalore, the*.....16th November 1936.

FROM

THE EXCISE COMMISSIONER IN MYSORE.

To

The Secretary,
Committee for Debt Conciliation Bill,
General & Revenue Secretariat,
BANGALORE.

Sir,

I have the honour to return herewith, after approval, the draft report of the Select Committee on the Debt Conciliation Bill received with your letter No.P.3203/11 dated 14th/15th instant.

I have the honour to be,
Sir,
Your most obedient servant,

For Excise Commissioner.

mdm.

Government of His Highness the Maharaja of Mysore

General and Revenue Secretariat.

No. P3203-11/Sec 1 Dated 14th November 1936.

From

The Secretary,
Committee for Debt Conciliation Bill.

To

K.V.Anantharaman, Esq., B.A.,

Sir,

I am directed to forward herewith a copy of the draft report of the Select Committee on the Debt Conciliation Bill and to request you to kindly return it with your approval on or before the 18th instant.

I have the honor to be,
Sir,
Your most obedient servant,

Secretary to the Committee.

Returned with Compts

Duly Approved

K.V. Anantharaman 16.11.36.

Yours most obediently,

Sir:

I have the honor to be,

Your letter of the 18th instant
with your reference to Mr. Ely's return
has been referred to the Select Committee on the
Conduct of the War and I am directed to inform
you that the Committee will be pleased to receive
the testimony of Mr. Ely at the
Committee Room, Washington, D.C.

Dated City of Washington, December 1862.

Chairman of the Committee on the Conduct of the War.

Approved
Mr. Amerson

GOVERNMENT OF MYSORE

No. 3773 C.S. 8-27

DEPARTMENT OF CO-OPERATION,

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES IN MYSORE,

Telegraphic Address: "CO-OPERT" BANGALORE

Dated, Bangalore Novr. 16, 193 6

From

GULAM MOHIYUDDIN MEHKRI, ESQ., B.A., LL.B.,
*Registrar of Co-operative Societies in Mysore,*
*Bangalore.*

To

The Secretary,
Committee for Debt Conciliation Bill,
Bangalore.

Sir,

I have the honour to return herewith the copy of the draft report of the Select Committee on the Debt Conciliation Bill approved by me with slight change as noted therein.

I have the honour to be,
Sir,
Your most obedient servant,

M. S. M.

Registrar of C.S.

P3203-11/Sec1

Rajacharitavisarada
Rao Sahib C.Hayavadana Rao,Esq., B.A., B.L.,

Clause 20 :— We consider that

16/11/26

RAJASABHABHUSHANA, DIWAN BAHADUR
K. R. SRINIVASIENGAR
RETIRED MEMBER OF COUNCIL

57 FIFTH ROAD, CHAMARAJAPET

Bangalore City, 18/11/36

Dear Sir

I herewith return the draft report of the Select Committee on the Debt Conciliation Bill received with your letter of No. 14/15 duly signed by me subject to my dissenting note attached thereto

Yours faithfully
K. R. Srinivasiengar

To
The Secretary to the Legislative Council
Bangalore

Clause 10 :- [illegible]

T. SHYAM IYANGAR, B.A.,B.L., ADVOCATE

59

COTTONPET,
BANGALORE CITY.
18-11-1936.

To

The Secretary,
Legislative Council,
Public Offices,
Bangalore.

Dear Sir,

I have the honour to forward herewith copy of the draft of the report of the Select Committee on the Debt Conciliation Bill with my signature appended ~~with~~ thereto in token of my approval.

WD/1911

Yours Sincerely,

T. Shyam Iyangar

MEMBER.

LEGISLATIVE COUNCIL.

Clause 10 :- We consider that

(iv) employed in the manufacture or handling of explosives in any premises wherein, or within th precincts whereof, on any one day of the preceding twelve months, ten or more persons have been so employed; or

(v) employed, in any mine as defined in clause (f) of section 3 of the ysore Mines Regulation, 1906 in any m ining operation, or in any kind of work, other than clerical work incidental to or connected with any mining operation or with the mineral obtained, or in any kind of work whatsoever below ground;

Provided that any excavation in which on no day of the preceding twelve months more than fifty persons have been employed or explosives have been used and whose depth from its highest to its lowest point does not exceed twenty feet shall be deemed not to be a mine for the purpose of this clause; or

(vi) employed in the construction, repair or demolition of -

(a) any building which is designed to be or is or has been more than one storey in height above the ground or twenty feet or more from the ground level to the apex of the rood, or

34

employed in the construction, repair or demolition of -

(a) any building which is designed to be or is or has been more than one storey in height above the ground or twenty feet or more from the ground level to the apex of the roof, or

(b) any dam or embankment which is twenty feet or more in height from its lowest to its highest point; or

(c) any road, bridge, or tunnel; or

employed in setting up, repairing, maintaining, or taking down any telegraph or telephone line or post or any over-head electric line or cable or post or standard for the same; or

employed, otherwise than in a clerical capacity, in the construction, working, repair or demolition of any aerial ropeway, canal, pipe-line, or sewer; or

employed in the service of any fire brigade; or

employed upon a railway as defined in clause (4) of section 3, and sub-section (1) of section 14 of the Railways Act, 1894, either directly or through a sub-contractor, by a person fulfilling a contract with the railway administration; or

V of 1894

employed as an inspector, mail guard, sorter or van peon in the Railway Mail Service, or employed in any occupation ordinarily involving outdoor work in the Indian Posts and Telegraphs Department; or

employed in any occupation involving blasting operations; or

employed in the making of any excavation in which one any one day of the preceding twelve months more than fifty persons have been employed or explosives have been used, or whose depth from its highest to its lowest point exceeds twenty feet; or

employed in the operation of any ferry boat capable of carrying more than ten persons; or

employed, otherwise than in a clerical capacity, on any estate which is maintained for the purpose of growing (cinchona) coffee, rubber or tea, and on which on any one day in the preceding twelve months twentyfive or more persons have been so employed; or

employed, otherwise than in a clerical capacity, in the generating, transforming or supplying of electrical energy or in the generating or supplying of gas; or

of 1927.

employed in producing cinematograph pictures intended for public exhibition or in exhibiting such pictures; or

employed in the training, keeping or working of elephants or wild animals; or

employed as a diver.

(Explanation.- In this Schedule, 'preceding twelve months' relates in any particular case to the twelve months ending with the day on which the accident in such case occurred.)

36

23

In Schedule III to the said Regulation, after the entry relating to phosphorus poisoning the following entries shall be ~~substituted~~ added, namely:—

XVA1933

23

SCHEDULE III.

(*See Section 3.*)

*List of occupational diseases.*

| Occupational disease | Employment |
|---|---|
| Lead poisoning or its sequelæ .. | Any process involving the use of lead or its preparations or compounds. |
| Phosphorus poisoning or its sequelæ | Any process involving the use of phosphorus or its preparations or compounds. |
| cury poisoning or its sequelae. | Any process involving the use of mercury or its preparations or compounds. |
| Poisoning by benzene and its homologues, or the sequelae of such poisoning. | Handling benzene or any of its homologues - and any process in the manufacture or involving the use of benzene or any of its homologues. |
| Chrome ulceration or its sequelae. | Any process involving the use of chromic acid or bichromate of ammonium, potassium or sodium, or their preparations. |
| Compressed air illness or its sequelae. | any process carried on in compressed air.) |

Sr Surgeon Chirchill's letter perhaps to be consulted.

Actuarially [illegible] Silicosis Cyanide poisoning Mercury poisoning as compensatable diseases:— Treasury Memo for be added on:

Amendments 29/8

22 In Schedule IV of the said Regulations, the following shall be substituted :—

37

XV of 1933 —

SCHEDULE IV
( See section 4)

Compensation payable in certain cases.

| Monthly wages of the workman injured. | | Amount of compensation for | | Half-monthly payment as compensation for Temporary Disablement of Adult. | |
|---|---|---|---|---|---|
| | | Death of Adult. | Permanent total Disablement of Adult. | | |
| 1 | | 2 | 3 | 4 | |
| More than | But not more than | | | | |
| Rs. | Rs. | Rs. | Rs. | Rs. | a. |
| 0 | 10 | 500 | 700 | Half his monthly wages. | |
| 10 | 15 | 550 | 770 | 5 | 0 |
| 15 | 18 | 600 | 840 | 6 | 0 |
| 18 | 21 | 630 | 882 | 7 | 0 |
| 21 | 24 | 720 | 1,008 | 8 | 0 |
| 24 | 27 | 810 | 1,134 | 8 | 8 |
| 27 | 30 | 900 | 1,260 | 9 | 0 |
| 30 | 35 | 1,050 | 1,470 | 9 | 8 |
| 35 | 40 | 1,200 | 1,680 | 10 | 0 |
| 40 | 45 | 1,350 | 1,890 | 11 | 4 |
| 45 | 50 | 1,500 | 2,100 | 12 | 8 |
| 50 | 60 | 1,800 | 2,520 | 15 | 0 |
| 60 | 70 | 2,100 | 2,940 | 17 | 8 |
| 70 | 80 | 2,400 | 3,360 | 20 | 0 |
| 80 | 100 | 3,000 | 4,200 | 25 | 0 |
| 100 | 200 | 3,500 | 4,900 | 30 | 0 |
| 200 | .. | 4,000 | 5,600 | 30 | 0 ) |

General Principles of the Bill to amend the Mysore Workmen's Compensation Regulation XIV of 1928.

---

The present Workmen's compensation Regulation, No.XIV of 1928, was based on the British Indian Act of 1923. The Indian Act has since undergone three amendments in 1926, 1929 and 1933 respectively.

The Workmen's compensation Act of 1923 was experimental in character and the amendment intro duced in 1926 and 1929 were designed to remedy admitted defects and embody changes of a non-con troversial character. Subsequently the Royal Com mission on Labour reviewed the entire position t in the light of further evidence supplied to the and made a number of recommendations on the sub ject. The Government of India in following them closely have passed a further amending Act in 1933 embodying a large number of suggestions co tained in the Report of the Royal Commission.

The changes in the law on the subject en acted in British India are found to be generall suitable to the conditions in Mysore and it is therefore proposed to undetake legislation on similar lines in Mysore by an amending Bill.

The more important changes proposed to be introduced are explained below.

The definition of the term "dependant" has been so recast as to divide them into two categories placing in the first, those who are practically in all cases actually dependant

dependant and in the second, those who may or may not be in that position. Certain additions have been made to the second category by the inclusion of illegitimate children and a widowed daughter-in-law.

The reference to manual labour in Section 2 (1) (l) has been omitted as there are no manual labourers in Mysore in receipt of more than Rs.300/- per mensem. The waiting period of 10 days specified in proviso A of sub section (1) to Section 3 of the Regulation is proposed to be reduced to 7 days.

Under the existing exemption in proviso (b) of Section 3 3 (1) of the Regulation, the employer is not liable to pay compensation when the accident is due to specific misconduct on the part of the workman. It is now proposed to amend the Sction so as to make the exception inapplicable in the case of fatal accidents, as it is extremely difficult for the dependants to rebut evidence that the accident was caused by the misconduct of the deceased especially where the employer's defence is that the workman disobeyed a safety rule.

The provision in Section 3(4) of t Regulation limits the liability of the employer to pay compensation in the case of non-scheduled diseases to those solely and directly attributable to the specific injury. As this is unduly stringent and diseases rarely if ever can be regarded as due solely to any one cause, the

the words "solely and" are proposed to be omitted in the above sub-section.

An important change proposed to be made is the revision of the scale of compensation payable as in schedule IV of the Regulation and the method of calculating the wages. The effect of these amendments is to enhance the compensation payable for death and for permanen disablement in the case of the more poorly paid workmen and those who are in receipt ~~fax~~ of higher wages. Compensation for temporary disablement would also be enhanced for most workmen. In place of 14 wages classes as at present, 17 have been substituted. The compensation payable in respect of a permanent total disablement of a minor is proposed to be fixed at Rs.1,200/-. Both the minimum and the maximum amounts of compensation for permanent total disablement have been raised; and also the maximum half-monthly payment on account of temporary disablement.

In the Regulation as it stands, compensation is expressed in terms of monthly wages in most cases in Section 4. It is now proposed to make certain drafting changes in Section 4(1) so that the fiction of "assumed wages" will disappear, and the actual amount of compensation payable can be arrived atin most cases by a reference to the revised schedule IV read with the instructions for the calculation of the wages in Section 5.

As it has been found that the limit of Rs.50/- fixed in section 8 of the Regulation for payment towards funeral expenses is un necessarily high and the payment of such amounts has led to abuses, it is proposed to reduce it to Rs.25/-.

Under the present Regulation a dependant who finds that no compensation has been deposited on account of the death of a workman has first to approach the employer. It is now laid down that no payment can be made by an employer in respect of fatal accidents to to a woman or a person under legal disability except by deposit with the Commissioner.

A provision has been added under Section 8 for the recovery of amounts of compen tion obtained by fraud, false impersonation or other improper means.

The requirements of the existing section 10 of the Regulation as regards notice are found to be too stringent. There are a number of cased in which no notice is necessary and the want of a notice should not be a bar to further proceedings in cases where the employer is proved to have had the knowledge of the accident. A further proviso to this effect has been added after sub section (1) in Section 10.

Provision has been made for the maintenance by a specific classes of employers of Notice Books on their premisesreadily accessible to workmen.

The Commissioner has been empowered to require from employers statements regarding fatal accidents, and power is taken for reports of fatal accidents being made to the Commissioner promptly. // With a view to remedy a defect in the law as it now stands, it has been now provided that a contractor may recover from a sub-contractor or any other person from whom the workmen could have recovered the compensation, the amounts advanced by such contractors on behalf of the sub contractor.

Under the existing Regulation no penalties have been provided for failure to submit returns under Section 15. A new Section has been inserted as Section 17 A., to remedy this defect. // The present Regulation provides for the appointment of only one commissioner for an area; it is now proposed to take power for the appointment of more than one Commissioner having jurisdiction over the same area and to regulate the work between them.

It is proposed to empower the Commissioner to call for a further deposit from the employer in the case of fatal accidents when the sum already deposited by the employer is found to be insufficient.

It is doubtful if under the present Regulation the Commissioner can without statutory authority withhold payment of compensation pending the result of an appeal to the High Court. It is now proposed to give him this power.

With a view to have a more convenient system of distribution of compensation of amounts payabl under the Regulation, it is proposed to have a new section to provide for the transfer, to other parts of British India and Indian States of the amounts of compensation awarded in Mysore in cases when the persons entitled to them have left Mysore and are residing in British India or an Indian State and for the receipt and administration of amounts awarded outside Mysore in respect of persons who are residing or about the reside in Mysore

The list of persons included in the definition of workmen in Schedule II of the present Regulation has been so enlarged as to include persons employed in branches of industries which are both organised and hazardous. The British India Act has included an entirely new class of workmen, the workers on the plantations. But it is expected that the increase in the number of possible claims on account of this will by no means be proportionate to the increase in the number of workers brought under the Regulation.

To the occupational diseases included in Schedule III of the existing Regulation, it is proposed to add diseases mentioned in Schedule III of the British India Act XIV of 1933 and in addition, silicosis or Miners' Phthisis and cyanide gas with reference to special conditions obtaining in the Kolar Gold Field area.

General Principles of the Bill to amend the Mysore Workmen's Comensation Regulation XIV of 1928.

---

present Workmen's Compensation Act, No

The ~~Regulation~~ XIV of 1928, was based on the British Indian Act of 1923. The Indian Act has since undergone three amendments in 1926, 1929 and 1933 respectively.

The Workmen's compensation Act of 1923 was experimental in character and the amendment ~~xxxxxxxx~~ introduced in 1926 and 1929 were ~~xxxxxxx~~ designed to remedy admitted defects and embody changes of a non-controversial character. Subsequently the Royal Commission on Labour reviewed the entire position in the light of further evidence supplied to them and made a number of recommendations on the subject. The Government of India in following them closely ~~xxxx~~ have passed a further amending Act in 1933 embodying a large number of suggestions contained in the Report of the Royal Commission.

The changes in the law on the subject enacted in British India are found to be generally suitable to the conditions in Mysore and it is therefore proposed to undertake legislation on similar lines in Mysore by an amending Bill.

The more important changes proposed to be introduced are explained below.

The definition of the term "dependant" has been so recast as to divide them into two categories placing in the first, those who are practically in all cases actually dependant

dependant and in the second, those who may or may not be in that position. Certain additions have been made to the second category by the inclusion of illegitimate children and a widowed daughter-in-law.

The reference to manual labour in Section 2 (1) (l) has been omitted as there are no manual labourers in Mysore in receipt of more than Rs.300/- per mensem. The waiting period of 10 days specified in proviso A of sub section (1) to Section 3 of the Regulation is proposed to be reduced to 7 days.

Under the existing exemption in proviso (b) of Section 3 (1) of the Regulation, ~~the Act~~ the employer is not liable to pay compensation when the accident is due to specified misconduct on the part of the workman. It is now proposed to amend the Section so as to make the exception inapplicable in the case of fatal accidents, as it is extremely difficult for the dependants to rebut evidence that the accident was caused by the misconduct of the deceased especially where the employer's defence is that the ~~employer's~~ workman disobeyed a safety rule.

The provision in Section 3(4) of the Regulation limits the liability of the employer to pay compensation in the case of non-scheduled diseases to those solely and directly attributable to the specific injury. As this is unduly stringent and diseases rarely if ever can be regarded as due solely to any one cause, the

the words "solely and" are proposed to be omitted in the above sub-section.

An important change proposed to be made is the revision of the scale of compensation payable as in schedule IV of the Regulation and the method of calculating the wages. The effect of this amendment is to enhance the compensation payable for death and for permanent disablement in the case of the more poorly paid workmen and those who are in receipt of higher wages. Compensation for temporary disablement would also be enhanced for most workmen. In place of 14 wage classes as at present, 17 have been substituted. The compensation payable in respect of a permanent total disablement of a minor is proposed to be fixed at Rs.1,200/-. Both the minimum and the maximum amounts of compensation for permanent disablement have been raised; as also the maximum half-monthly payment on account of temporary disablement.

In the Regulation as it stands, compensation is expressed in terms of monthly wages in most cases in Section 4. It is now proposed to make certain drafting changes in Section 4 (1) so that the fiction of "assumed wages" will disappear, and the actual amount of compensation payable can be arrived at in most cases by a reference to the revised schedule IV read with the instructions for the calculation of the wages in Section 5.

As it has been found that the limit of Rs.50/- fixed in section 8 of the Regulation for payment towards funeral expenses is unnecessarily high and the payment of such amounts has led to abuses, it is proposed to reduce it to Rs.25/-.

Under the present Regulation a dependant who finds that no compensation has been deposited on account of death of a workman has first to approach the employer. It is now laid down that no payment can be made by an employer in respect of fatal accidents or to a woman or a person under legal disability except by deposit with the Commissioner.

A provision has been added under Section 8 for the recovery of amounts of compensation obtained by fraud, false impersonation or other improper means.

The requirements of the existing Section 10 of the Regulation as regards notice are found to be too stringent. There are a number of cases in which no notice is necessary and the want of a notice should not be a bar to further proceedings in cases where the employer is proved to have had the knowledge of the accident. A further proviso to this effect has been added after sub section (1) in Section 10.

Provision has been made for the maintenance by specified classes of employers of Notice Books on their premises readily accessible to workmen.

The

The Commissioner has been empowered to require from employers statements regarding fatal accidents, and power is taken ~~to call~~ for reports of fatal accidents being made to the Commissioner promptly. // With a view to remedy a defect in the law as it now stands, it has been now provided that a contractor may recover from a sub-contractor or any other person from whom the workmen could have recovered the compensation, or the amounts advanced by such contractors on behalf of the sub contractor.

Under the existing Regulation no penalties have been provided for failure to submit returns under Section 15. // A new Section has been inserted as Section 17 A., to remedy this defect. // The present Regulation provides for the appointment of only one commissioner for any area; it is now proposed to take power for the appointment of more than one Commissioner having jurisdiction over the same area and to regulate the work between them. // It is proposed to empower the Commissioner to call for a further deposit from the employer in the case of fatal accidents when the sum already deposited by the employer is found to be insufficient.

It is doubtful if under the present Regulation the Commissioner can without statutory authority ~~can~~ withhold payment of compensation pending the result of an appeal to the High Court. It is now proposed to give him this power.

With a view to have a more convenient system of distribution of compensation amounts payable to persons residing or about to reside in Mysore and for the prompt payment of compensation to persons who have migrated outside Mysore, it is proposed to add a Section to provide for the transfer of such amounts outside Mysore and for their receipt and administration in Mysore of amounts awarded outside Mysore in Mysore.

it is proposed to have a new section to provide for the transfer, to other parts of British India & Indian States, of the amounts of compensation awarded in Mysore in cases where the persons entitled to them have left Mysore & are residing in Br India or an Indian State and for their receipt and administration of amounts awarded outside Mysore in respect of persons who are residing or about to reside in Mysore.

The list of persons included in the definition of workmen in schedule II of the present Regulation has been so enlarged as to include persons employed in branches of industries which are both organised and hazardous. The Government of India Act of Br. India has included an entirely new class of workmen, the workers in their Plantations. But it is expected that the increase in the number of possible claims on account of this will by no means be proportionate to the increase in the number of workers brought under the Regulation.

To the occupational diseases included in Schedule III of the existing Regulation, it is proposed to add diseases mentioned in schedule III of the Government of India Act of Br. India XV XIV of 1933 and in addition, silicosis or Miners' phthisis and cyanide rashes are also proposed to be included with reference to special conditions obtaining in the Kolar Gold Fields Area.

...

vvk.2.

NO 4

## NOTIFICATION.

*No. 1845—L. C. Bangalore, dated 16th November 1935.*

Under Rule 8 of the Rules for the conduct of business of the Mysore Legislative Council, the accompanying Bill to amend the Workmen's Compensation Regulation, No. XIV of 1928, is published for general information with the statement of objects and reasons.

By Order,
C. SUBRAHMANYA AIYAR,
*Secretary, Mysore Legislative Council.*

## BILL TO AMEND THE WORKMEN'S COMPENSATION REGULATION, No. XIV OF 1928.

WHEREAS it is expedient to amend the Workmen's Compensation Regulation, No. XIV of 1928; It is hereby enacted as follows:—

1. This Regulation shall be called the Workmen's Compensation (Amendment) Regulation, 193 .

2. In section 2 of the Workmen's Compensation Regulation, 1928 (hereinafter referred to as the said Regulation),—

(a) in sub-section (1):—

(b) the following shall be substituted for the existing clause (*d*):—

(*d*) "dependent" means any of the following relatives of a deceased workman, namely—

(i) a wife, a minor legitimate son, and unmarried legitimate daughter, or a widowed mother; and

(ii) if wholly or in part dependant on the earnings of the workman at the time of his death, a husband, a parent other than a widowed mother, a minor illegitimate son, an unmarried illegitimate daughter, a daughter legitimate or illegitimate if married and a minor or if widowed, a minor brother, an unmarried or widowed sister, a widowed daughter-in-law, a minor child of a deceased son, or, where no parent of the workman is alive, a paternal grandparent.

(ii) in sub-clause (ii) of clause (*l*) the words "either by way of manual labour or" shall be omitted.

(*b*) for sub-section (3), the following shall be substituted :—

"The Government, after giving, by notification in the Official Gazette, not less than three months' notice of its intention so to do, may, by a like notification, add to Schedule II any class of persons employed in any occupation which it is satisfied is a hazardous occupation, and the provisions of this Regulation shall thereupon apply to such classes of persons :

Provided that in making such additions the Government may direct that the provisions of this Regulation shall apply to such classes of persons in respect of specified injuries only."

3. In section 3 of the said Regulation,—

(*a*) in sub-section (1) :—

(i) in proviso (*a*) for the word 'ten' the word 'seven' shall be substituted ;

(ii) in proviso (*b*) for the words "injury to a workman resulting from" the words "injury not resulting in death, caused by" shall be substituted ; and

(iii) the word 'or' of proviso (*b*) at the end of sub-clause (iii) and the whole of proviso (*c*) shall be omitted ;

(*b*) in sub-section (2) for the words "hides or skins," the following shall be substituted, namely :—"or animal carcasses or parts of such carcasses, or in the loading, unloading or transport of any merchandise, or in any work in connection with animals infected with anthrax" ; and

(*c*) in sub-section (4) the words "solely and" shall be omitted.

4. In sub-section (1) of section 4 of the said Regulation,—

(*a*) for clause (i) under A, the following shall be substituted :—

(i) "in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—the amount shown against such limits in the second column thereof, and" ;

(*b*) for clauses (i) and (ii) under B, the following shall be substituted :—

(i) "in the case of an adult in receipt of monthly wages falling within limits shown in the first column of

Schedule IV—the amount shown against such limits in the third column thereof, and

(ii) in the case of a minor—twelve hundred rupees";

(*c*) (i) in D, for the words "ten days" the words "seven days" shall be substituted; and

(ii) for clauses (i) and (ii) and the proviso under D, the following shall be substituted:—

"(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—of the sum shown against such limits in the fourth column thereof, and

(ii) in the case of a minor—of one-half of his monthly wages, subject to a maximum of thirty rupees:

Provided that (*a*) there shall be deducted from any lumpsum or half-monthly payments to which the workman is entitled, the amount of any payment or allowance which the workman has received from the employer by way of compensation during the period of disablement prior to the receipt of such lumpsum or the first half-monthly payment, as the case may be; and

(*b*) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the workman before the accident exceeds half the amount of such wages which he is earning after the accident."

5. In section 5 of the said Regulation,—

(i) for the word and figure "Section 4" the words "this Regulation" shall be substituted;

(ii) after clause (*a*) the following clause shall be inserted, *viz.*,—

"(*b*) where the whole of the continuous period of service immediately preceding the accident during which the workman was in the service of the employer who is liable to pay the compensation was less than one month, the monthly wages of the workman shall be deemed to be the average monthly amount which, during the twelve months immediately preceding the accident, was being earned by a workman employed on the same work by the same employer, or, if there was no workman so employed, by a workman employed on similar work in the same locality";

(iii) clause (*b*) shall be re-lettered as clause (*c*), and

(iv) the proviso shall be omitted.

6. In section 8 of the said Regulation:—

(*a*) for sub-sections (1) to (3), the following sub-sections shall be substituted, namely:—

"(1) No payment of compensation in respect of a workman whose injury has resulted in death, and no payment of a lumpsum as compensation to a woman or a person under a legal disability, shall be made otherwise than by deposit with the Commissioner, and no such payment made directly by an employer shall be deemed to be a payment of compensation:

Provided that, in the case of a deceased workman, an employer may make to any dependant advances on account of compensation not exceeding an aggregate of one hundred rupees, and so much of such aggregate as does not exceed the compensation payable to that dependant shall be deducted by the Commissioner from such compensation and repaid to the employer.

(2) Any other sum amounting to not less than ten rupees which is payable as compensation may be deposited with the Commissioner on behalf of the person entitled thereto.

(3) The receipt of the Commissioner shall be a sufficient discharge in respect of any compensation deposited with him"; and

(*b*) in sub-section (4) (i) after the words "under sub-section (1)" the words "as compensation in respect of a deceased workman" shall be inserted,

(ii) the words "shall deduct" shall be substituted for the words "may deduct", and

(iii) the word "twenty-five" shall be substituted for the word "fifty";

(*c*) for sub-section (5), the following sub-sections shall be substituted, namely:—

"(5) Compensation deposited in respect of a deceased workman shall, subject to any deduction made under sub-section (4), be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one dependant.

(6) Where any compensation deposited with the Commissioner is payable to any person, the Commissioner shall, if the person to whom the compensation is payable

is not a woman or a person under a legal disability, and may, in other cases, pay the money to the person entitled thereto.

(7) Where any lumpsum deposited with the Commissioner is payable to a woman or a person under legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of the woman, or of such person during his disability, in such manner as the Commissioner may direct; and where a half-monthly payment is payable to any person under a legal disability, the Commissioner may, of his own motion or on an application made to him in this behalf, order that the payment be made during the disability to any dependant of the workman or to any other person whom the Commissioner thinks best fitted to provide for the welfare of the workman "; and

(*d*) sub-section (6) shall be re-numbered as sub-section (8); and

(*e*) after that sub-section the following sub-section shall be added, namely:—

"(9) Where the Commissioner varies any order under sub-section (8) by reason of the fact that payment of compensation to any person has been obtained by fraud, impersonation or other improper means, any amount so paid to or on behalf of such person may be recovered in the manner hereinafter provided in section 30."

7. In section 10 of the said Regulation,—

(*a*) in sub-section (1), after the first proviso the following further proviso shall be inserted, namely:—

" Provided further that the want of or any defect or irregularity in a notice shall not be a bar to the maintenance of proceedings—

(*a*) if the claim is made in respect of the death of a workman resulting from an accident which occurred on the premises of the employer, or at any place where the workman at the time of the accident was working under the control of the employer or of any person employed by him, and the workman died on such premises or at such place, or on any premises belonging to the employer, or died without having left the vicinity of the premises or place where the accident occurred, or

(*b*) if the employer had knowledge of the accident from any other source at or about the time when it occurred "; and

(*b*) for sub-section (3) the following sub-sections shall be substituted, namely :—

" (3) The Government may require that any prescribed class of employers shall maintain at their premises at which workmen are employed a notice-book, in the prescribed form, which shall be readily accessible at all reasonable times to any injured workman employed on the premises and to any person acting *bona fide* on his behalf.

(4) A notice under this section may be served by delivering it at, or sending it by registered post addressed to, the residence or any office or place of business of the person on whom it is to be served, or, where a notice-book is maintained, by entry in the notice-book."

8. After section 10 of the said Regulation the following sections shall be inserted, namely :—

Power to require from employers statements regarding fatal accidents. 8 of 15 of 33.

" 10A. (1) Where a Commissioner receives information from any source that a workman has died as a result of an accident arising out of and in the course of his employment, he may send by registered post a notice to the workman's employer requiring him to submit, within thirty days of the service of the notice, a statement, in the prescribed form, giving the circumstances attending the death of the workman, and indicating whether, in the opinion of the employer, he is or is not liable to deposit compensation on account of the death.

(2) If the employer is of opinion that he is liable to deposit compensation, he shall make the deposit within thirty days of the service of the notice.

(3) If the employer is of opinion that he is not liable to deposit compensation, he shall in his statement indicate the grounds on which he disclaims liability.

(4) Where the employer has so disclaimed liability, the Commissioner, after such inquiry as he may think fit, may inform any of the dependants of the deceased workman that it is open to the dependants to prefer a claim for compensation, and may give them such other further information as he may think fit.

Reports of fatal accidents.

10B. (1) Where, by any law for the time being in force, notice is required to be given to any authority, by or on behalf of an employer, of any accident occurring on his premises which results in death, the person required to give the notice shall, within seven days of

the death, send a report to the Commissioner giving the circumstances attending the death:

Provided that where the Government has so prescribed the person required to give the notice may instead of sending such report to the Commissioner send it to the authority to whom he is required to give the notice.

(2) The Government may, by notification in the Official Gazette, extend the provisions of sub-section (1) to any class of premises other than those coming within the scope of that sub-section, and may, by such notification, specify the persons who shall send the report to the Commissioner."

9. In sub-section (2) of section 12 of the said Regulation after the words "the contractor" the following words shall be inserted:—

"or any other person from whom the workman could have recovered compensation and where a contractor who is himself a principal is liable to pay compensation or to indemnify a principal under this section he shall be entitled to be indemnified by any person standing to him in the relation of a contractor from whom the workman could have recovered compensation."

10. In Chapter II and after section 17 of the said Regulation, the following section shall be inserted, namely:—

"17A. (1) Whoever— Penalties

(*a*) fails to maintain a notice book which he is required to maintain under sub-section (3) of section 10, or

(*b*) fails to send to the Commissioner a statement which he is required to send under sub-section (1) of section 10A, or

(*c*) fails to send a report which he is required to make under section 10B, or

(*d*) fails to make a return which he is required to make under section 15, shall be punishable with fine which may extend to one hundred rupees.

(2) No prosecution under this section shall be instituted except by or with the previous sanction of a Commissioner, and no Court shall take cognizance of any offence under this section, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed."

11. In sub-section (1) of section 18 of the said Regulation, for the words 'the Commissioner' the words 'a Commissioner' shall be substituted.

12. In section 19 of the said Regulation,—

(*a*) after sub-section (1) the following sub-section shall be inserted, namely :—

"(2) Where more than one Commissioner has been appointed for any local area, the Government may, by general or special order, regulate the distribution of business between them"; and

(*b*) sub-sections (2) and (3) shall be re-numbered as sub-sections (3) and (4).

13. In section 20 of the said Regulation,—

(*a*) in sub-section (1), for the words "the Commissioner" the words "a Commissioner" shall be substituted ; and

(*b*) after sub-section (4) the following sub-section shall be added, namely :—

"(5) The Government may transfer any matter from any Commissioner appointed by it to any other Commissioner appointed by it."

14. In section 21 of the said Regulation,—

(*a*) in sub-section (1) after the word "Commissioner" a comma and the words "other than an application by a dependant or dependants for compensation," shall be inserted ; and

(*b*) in sub-section (2),

(i) for the words "Where any such question has arisen, the application," the words "An application to a Commissioner" shall be substituted, and

(ii) for clause (*d*) the following shall be substituted, namely :—

"except in the case of an application by dependants for compensation a concise statement of the matters on which agreement has and of those on which agreement has not been come to."

15. After section 21 of the said Regulation the following sections shall be inserted, namely :—

Power of Commissioner to require further deposit in cases of fatal accidents.

21A. Where any sum has been deposited by an employer as compensation payable in respect of a workman whose injury has resulted in death, and in the opinion of the Commissioner such sum is insufficient,

the Commissioner may, by notice in writing stating his reasons, call upon the employer to show cause why he should not make a further deposit within such time as may be stated in the notice.

(2) If the employer fails to show cause to the satisfaction of the Commissioner, the Commissioner may make an award determining the total amount payable, and requiring the employer to deposit the deficiency."

16. In section 22 after the word "objects" the following words shall be added, namely:—

"and the Commissioner shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXXV of the Code of Criminal Procedure, 1904."

17. In sub-section (1) of section 27 of the said Regulation,—

(*a*) for the words "to a person under a legal disability or to a dependant" the words "to a woman or a person under a legal disability" shall be substituted;

(*b*) clause (*b*) of the proviso shall be omitted;

(*c*) in clause (*d*) of the proviso,

(i) for the words "to a person under any legal disability or to any dependant," the words "to a woman or a person under a legal disability" shall be substituted, and

(ii) for the words "or may make such order" the words "and may make such order" shall be substituted.

18. To sub-section (1) of section 29 of the said Regulation, after the existing provisos the following further proviso shall be added, namely:—

"Provided further that no appeal by an employer under clause (*a*) shall lie unless the memorandum of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against."

19. After section 29 of the said Regulation, the following section shall be inserted, namely:—

Withholding of certain payments pending decision of appeal.

"29A. Where an employer makes an appeal under clause (*a*) of sub-section (1) of section 29, the Commissioner may, and if so directed by the High Court shall, pending the decision of the appeal, withhold payment of any sum in deposit with him."

20. In sub-section (2) of section 31 of the said Regulation, after clause (*k*) the following clauses shall be inserted, namely :—

"(*l*) for prescribing the classes of employers who shall maintain notice books under sub-section (3) of section 10 and the form of such notice books;

(*m*) for prescribing the form of statement to be submitted by employers under section 10A;

(*n*) for prescribing the cases in which the report referred to in section 10B may be sent to an authority other than the Commissioner, and

(*o*) generally for carrying on all or any of the purposes of this Regulation."

21. After section 32 of the said Regulation the following section shall be inserted, namely :—

"32A. The Government may by notification in the Official Gazette make rules for the transfer to any part of British India or other States in India of money paid to a Commissioner under this Regulation for the benefit of any person residing or about to reside in such part and for the receipt and administration in Mysore of any money awarded under the law relating to workmen's compensation in any such part and applicable for the benefit of any person residing or about to reside in Mysore."

22. For Schedule II of the said Regulation, the following shall be substituted :—

## SCHEDULE II.

The following persons are workmen within the meaning of section 2 (I) (1) and subject to the provisions of that section, that is to say, any person who is—

(i) employed, otherwise than in a clerical capacity, or on a railway in connection with the operation or maintenance of mechanically propelled vehicles; or

"used for the carriage of passengers for hire or for industrial or commercial purposes, or"

(ii) employed within the meaning of clause (2) of section 2 of the Mysore Factories Regulation, 1914, in any place which is a factory within the meaning of sub-clause (*a*) of clause (3) of that section; or

(iii) employed for the purpose of making, altering, repairing, ornamenting, finishing or otherwise adapting

for use, transport or sale any article or part of an article in any premises wherein or within the precincts whereof on any one day of the preceding twelve months, fifty or more persons have been so employed; or

(iv) employed in the manufacture or handling of explosives in any premises wherein, or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been so employed; or

(v) employed in any mine which is subject to the operation of the Mysore Mines Regulation, 1906;

*Explanation.*—A person is said to be "employed" in a mine who works under appointment by or with the knowledge of the manager, whether for wages or not, in any mining operation, or in cleaning, or oiling any part of any machinery used in or about the mine, or in any other kind of work whatsoever incidental to, or connected with, mining operations.

*Or*

(vi) employed in the construction, repair or demolition of—

(*a*) any building which is designed to be or is or has been more than one storey in height above the ground or twenty feet or more from the ground level to the apex of the roof; or

(*b*) any dam or embankment which is twenty feet or more in height from its lowest to its highest point; or

(*c*) any road, bridge, or tunnel; or

(vii) employed in setting up, repairing, maintaining, or taking down any telephone line or post or any overhead electric line or cable or post or standard for the same; or

(viii) employed, otherwise than in a clerical capacity, in the construction, working, repair or demolition of any aerial ropeway, canal, pipe-line, or sewer; or

(ix) employed in the service of any fire brigade; or

(x) employed upon a railway as defined in clause (4) of section 3, of the Mysore Railways Regulation, 1894, either directly or through a sub-contractor, by a person fulfiling a contract with the railway administration; or

(xi) employed, otherwise than in a clerical capacity, in connection with operations for winning natural petroleum or natural gas; or

(xii) employed in any occupation involving blasting operations; or

(xiii) employed in the making of any excavation in which on any one day of the preceding twelve months more than fifty persons have been employed or explosives have been used, or whose depth from its highest to its lowest point exceeds twenty feet; or

(xiv) employed in the operation of any ferry boat capable of carrying more than ten persons; or

(xv) employed, otherwise than in a clerical capacity, on any estate which is maintained for the purpose of growing coffee, rubber or tea, and on which on any one day in the preceding twelve months twenty-five or more persons have been so employed; or

(xvi) employed, otherwise than in a clerical capacity, in the generating, transforming or supplying of electrical energy or in the generating or supplying of gas; or

(xvii) employed in producing cinematograph pictures intended for public exhibition or in exhibiting such pictures; or

(xviii) employed in the training, keeping or working of elephants or wild animals; or

(xix) employed as a driver.

*Explanation.*—In this Schedule 'the preceding twelve months' relates in any particular case to the twelve months ending with the day on which the accident in such case occurred.

23. In Schedule III to the said Regulation after the entry relating to phosphorus poisoning, the following entries shall be added, namely :—

| | |
|---|---|
| "Mercury poisoning or its sequelæ. | Any process involving the use of mercury or its preparations or compounds. |
| Poisoning by benzene and its homologues, or the sequelæ of such poisoning. | Handling benzene or any of its homologues—and any process in the manufacture or involving the use of benzene or any of its homologues. |
| Chrome ulceration or its sequelæ. | Any process involving the use of chromic acid or bichromate of ammonium, potassium or sodium, or their preparations. |
| Compressed air illness or its sequelæ. | Any process carried on in compressed air. |
| Miners' phthisis or silicosis, | Any occupation wherein the mineral dust is such as to cause silicosis. |
| Cyanide rash | The handling of cyanide or any work involving the use of cyanide. |

24. For Schedule IV to the said Regulation, the following shall be substituted:—

## SCHEDULE IV.

(*See Section 4.*)

### Compensation Payable in certain Cases.

| Monthly wages of the workman injured | | Amount of compensation for | | Half-monthly payment as compensation for temporary disablement of adult |
|---|---|---|---|---|
| | | Death of adult | Permanent total disablement of adult | |
| More than | But not more than | | | |
| Rs. | Rs. | Rs. | Rs. | Rs. a. |
| 0 | 10 | 500 | 700 | Half his monthly wages |
| 10 | 15 | 550 | 770 | 5 0 |
| 15 | 18 | 600 | 840 | 6 0 |
| 18 | 21 | 630 | 882 | 7 0 |
| 21 | 24 | 720 | 1,008 | 8 0 |
| 24 | 27 | 810 | 1,134 | 8 8 |
| 27 | 30 | 900 | 1,260 | 9 0 |
| 30 | 35 | 1,050 | 1,470 | 9 8 |
| 35 | 40 | 1,200 | 1,680 | 10 0 |
| 40 | 45 | 1,350 | 1,890 | 11 4 |
| 45 | 50 | 1,500 | 2,100 | 12 8 |
| 50 | 60 | 1,800 | 2,520 | 15 0 |
| 60 | 70 | 2,100 | 2,940 | 17 8 |
| 70 | 80 | 2,400 | 3,360 | 20 0 |
| 80 | 100 | 3,000 | 4,200 | 25 0 |
| 100 | 200 | 3,500 | 4,900 | 30 0 |
| 200 | ... | 4,000 | 5,600 | 30 0 |

### Statement of Objects and Reasons.

The present Workmen's Compensation Regulation, No. XIV of 1928, was based on the British Indian Act of 1923. The Indian Act has since undergone three amendments in 1926, 1929 and 1933, respectively.

The Workmen's Compensation Act of 1923 was experimental in character and the amendments introduced

in 1926 and 1929 were designed to remedy admitted defects and embody changes of a non-controversial character. Subsequently, the Royal Commission on Labour reviewed the entire position in the light of further evidence supplied to them and made a number of recommendations on the subject. The Government of India, in following them closely, have passed a further amending Act in 1933 embodying a large number of suggestions contained in the Report of the Royal Commission.

The changes in the law on the subject enacted in British India are found to be generally suitable to the conditions in Mysore, and it is therefore proposed to undertake legislation on similar lines in Mysore by an amending Bill.

The following notes on clauses explain the more important changes proposed to be introduced :—

*Clause 2.*—The definition of the term "dependant" has been so recast as to divide dependants into two categories, placing in the first, those who are practically in all cases actually dependant, and in the second, those who may or may not be in that position. Certain additions have been made to the second category by the inclusion of illegitimate children and a widowed daughter-in-law.

The reference to manual labour in section 2 (1) (*l*) has been omitted as there are no manual labourers in Mysore in receipt of more than Rs. 300 per mensem.

*Clause 3.*—The waiting period of ten days specified in proviso A of sub-section (1) to section 3 of the Regulation is proposed to be reduced to seven days.

Under the existing exemption in proviso (*b*) of section 3 (1) of the Regulation, the employer is not liable to pay compensation when the accident is due to specific misconduct on the part of the workman. It is now proposed to amend the section so as to make the exception inapplicable in the case of fatal accidents, as it is extremely difficult for the dependants to rebut evidence that the accident was caused by the misconduct of the deceased, especially where the employer's defence is that the workman disobeyed a 'safety' rule.

The provision in section 3 (4) of the Regulation limits the liability of the employer to pay compensation in the case of non-scheduled diseases to those solely and directly attributable to the specific injury. As this is unduly stringent and diseases rarely if ever can be

regarded as due solely to any one cause, the words "solely and" are proposed to be omitted in the above sub-section.

*Clauses 4 and 5.*—An important change proposed to be made is the revision of the scale of compensation payable as in Schedule IV of the Regulation and the method of calculating the wages. The effect of these amendments is to enhance the compensation payable for death and for permanent disablement in the case of the more poorly paid workmen on the one hand and those who are in receipt of specially high wage on the other. Compensation for temporary disablement would also be enhanced for most workmen. In place of 14 wage classes as at present, 17 have been substituted. The compensation payable in respect of a permanent total disablement of a minor is proposed to be fixed at Rs. 1,200. Both the minimum and the maximum amounts of compensation for permanent total disablement have been raised, as also the maximum half-monthly payment on account of temporary disablement.

In the Regulation as it stands, compensation is expressed in terms of monthly wages in most cases in section 4. It is now proposed to make certain drafting changes in section 4 (1) so that the fiction of "assumed wages" will disappear, and the actual amount of compensation payable can be arrived at in most cases by a reference to the revised Schedule IV read with the instructions for the calculation of the wages in section 5.

Under the present Regulation, a dependant who finds that no compensation has been deposited on account of the death of a workman has first to approach the employer. It is now laid down that no payment can be made by an employer in respect of fatal accidents or to a woman or a person under legal disability, except by deposit with the Commissioner.

*Clause 6.*—As it has been found that the limit of Rs. 50 fixed in section 8 of the Regulation for payment towards funeral expenses is unnecessarily high and the payment of such amounts has led to abuses, it is proposed to reduce it to Rs. 25.

A provision has been added under section 8 for the recovery of amounts of compensation obtained by fraud, false impersonation or other improper means.

*Clause 7.*—The requirements of the existing section

10 of the Regulation as regards notice are found to be too stringent. There are a number of cases in which no notice is necessary and the want of a notice should not be a bar to further proceedings in cases where the employer is proved to have had the knowledge of the accident. A further proviso to this effect has been added after sub-section (1) in section 10.

Provision has been made for the maintenance by specified classes of employers of Notice Books on their premises readily accessible to workmen.

*Clause 8.*—The Commissioner has been empowered to require from employers statements regarding fatal accidents, and power is taken for reports of fatal accidents being made to the Commissioner promptly.

*Clause 9.*—With a view to remedy a defect in the law as it now stands, it has been now provided that a contractor may recover from a sub-contractor or any other person from whom the workmen could have recovered the compensation, the amounts advanced by such contractors on behalf of the sub-contractor.

*Clause 10.*—Under the existing Regulation no penalties have been provided for failure to submit returns under section 15. A new section has been inserted as section 17 A, to remedy this defect.

*Clauses 11 to 14.*—The present Regulation provides for the appointment of only one Commissioner for an area; it is now proposed to take power for the appointment of more than one Commissioner having jurisdiction over the same area and to regulate the work between them.

*Clause 15.*—It is proposed to empower the Commissioner to call for a further deposit from the employer in the case of fatal accidents when the sum already deposited by the employer is found to be insufficient.

*Clause 16.*—The amendment is designed to vest Commissioners with the same powers in respect of prosecution of persons for perjury as are possessed by civil courts generally.

*Clause 17.*—The amendment is intended to extend the protection which is afforded by compulsory registration of agreements to cases where compensation settled by agreement is payable to a woman or any person under a legal disability.

*Clause 18.*—The amendment provides for the filing of a certificate along with an appeal memo against the

orders of a Commissioner, to the effect that the employer has deposited with the Commissioner the amount payable under the order appealed against.

*Clause 19.*—It is doubtful if under the present Regulation the Commissioner can, without statutory authority, withhold payment of compensation, pending the result of an appeal to the High Court. The amendment is intended to confer the necessary authority on the Commissioner to withhold payment of compensation pending the decision of the appeal.

*Clause 20.*—To the existing power of Government to make rules for carrying out the purposes of the Regulation certain new ones are added and these are consequent on the additional sections provided elsewhere in the Bill.

*Clause 21.*—In order to arrange for a more convenient system of distribution of compensation amounts payable under the Regulation, it is proposed to have a new section to provide for the transfer, to other parts of British India and Indian States, of the amounts of compensation awarded in Mysore in cases where the persons entitled to them have left Mysore and are residing in British India or an Indian State and for the receipt and administration of amounts awarded outside Mysore in respect of the persons who are residing or about to reside in Mysore.

*Clause 22.*—The list of persons included in the definition of 'workmen' in Schedule II of the present Regulation has been so enlarged as to include persons employed in branches of industries which are both organised and hazardous. The British Indian Act has included an entirely new class of workmen, the workers on the plantations. But it is expected that the increase in the number of possible claims on account of this will by no means be proportionate to the increase in the number of workers brought under the Regulation.

*Clause 23.*—To the occupational diseases included in Schedule III of the existing Regulation, it is proposed to add diseases mentioned in Schedule III of the British Indian Act XV of 1933 and in addition, silcosis or Miners' phthisis and cyanide rash with reference to special conditions obtaining in the Kolar Gold Field area.

Printed by the Superintendent at the Government Press, Bangalore.

# BILL TO AMEND THE WORKMEN'S COMPENSATION REGULATION No. XIV OF 1928.

(N.B.—*Portions to be deleted are enclosed in Square Brackets and portions to be added are printed in Small Types.*)

**Sections of existing Regulation as they stand.**

Definitions

2. (1) In this Regulation unless there is anything repugnant in the subject or context,—

(*a*) "adult" and "minor" means respectively a person who is not and a person who is under the age of fifteen years;

(*b*) "Commissioner" means a Commissioner for Workmen's Compensation appointed under Section 19;

(*c*) "compensation" means compensation as provided for by this Regulation;

(*d*) ["dependant" means any of the following relatives of a deceased workman, namely, a wife, husband, parent, minor son, unmarried daughter, married daughter who is a minor, minor brother or unmarried sister, and includes the widow and the minor children of a deceased son of the workman and where no parent of the workman is alive, a paternal grand-parent;]

(*e*) "employer" includes any body of persons whether incorporated or not and any managing agent of an employer and the legal representative of a deceased employer, and, when the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means such other person while the workman is working for him;

(*f*) "managing agent" means any person appointed or acting as the representative of another person for the purpose of carrying on such other person's trade or business but does not include an individual manager subordinate to an employer;

(*g*) "partial disablement" means where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in the disablement, and, where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time; provided that every injury specified in Schedule I shall be deemed to result in permanent partial disablement;

(*h*) "prescribed" means prescribed by rules made under this Regulation;

(*i*) "qualified medical practitioner" means any person declared by the Government by notification in the *Official Gazette* to be a qualified medical practitioner for the purposes of this Regulation;

(*j*) "total disablement" means such disablement, whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement; provided that permanent total disablement shall be deemed to result from the permanent total loss of the sight of both eyes or from any combination of injuries specified in Schedule I where the aggregate percentage of the loss of earning capacity, as specified in that Schedule against those injuries, amounts to one hundred per cent;

(*k*) "wages" includes any privilege or benefit which is capable of being estimated in money, other than travelling allowance or the value of any travelling concession

**Sections as proposed to be amended.**

2. (1) In this Regulation unless there is anything repugnant in the subject or context,— Deffinitions.

(*a*) " adult " and " minor " means respectively a person who is not and a person who is under the age of fifteen years ;

(*b*) " Commissioner " means a Commissioner for Workmen's Compensation appointed under Section 19 ;

(*c*) " compensation " means compensation as provided for by this Regulation ;

(*d*) " dependant " means any of the following relatives of a deceased workman, namely—.

(i) a wife, a minor legitimate son, and unmarried legitimate daughter, or a widowed mother; and

(ii) if wholly or in part dependant on the earnings of the workman at the time of his death, a husband, a parent other than a widowed mother, a minor illegitimate son, an unmarried illegitimate daughter, a daughter legitimate or illegitimate if married and a minor or if widowed, a minor brother, an unmarried or widowed sister, a widowed daughter-in-law, a minor child of a deceased son, or, where no parent of the workman is alive, a paternal grandparent ;

(*e*) " employer " includes any body of persons whether incorporated or not and any managing agent of an employer and the legal representative of a deceased employer, and, when the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means such other person while the workman is working for him ;

(*f*) " managing agent " means any person appointed or acting as the representative of another person for the purpose of carrying on such other person's trade or business, but does not include an individual manager subordinate to an employer ;

(*g*) " partial disablement " means where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in the disablement, and, where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time ; provided that every injury specified in Schedule I shall be deemed to result in permanent partial disablement ;

(*h*) " prescribed " means prescribed by rules made under this Regulation;

(*i*) " qualified medical practitioner " means any person declared by the Government by notification in the *Official Gazette* to be a qualified medical practitioner for the purposes of this Regulation ;

(*j*) " total disablement " means such disablement, whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement; provided that permanent total disablement shall be deemed to result from the permanent total loss of the sight of both eyes or from any combination of injuries specified in Schedule I where the aggregate percentage of the loss of earning capacity, as specified in that Schedule against those injuries, amounts to one hundred per cent ;

(*k*) " wages " includes any privilege or benefit which is capable of being estimated in money, other than travelling allowance or the value of any travelling concession

or a contribution paid by the employer of a workman towards any pension or provident fund or a sum paid to a workman to cover any special expenses entailed on him by the nature of his employment;

(*l*) " workman " means any person (other than a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business) who is :—

(i) a railway servant as defined in section 3 of the Mysore Railways Regulation, 1894, not permanently employed in any administrative district or sub-divisional office of a railway and not employed in any such capacity as is specified in Schedule II, or

(ii) employed, [either by way of manual labour or] on monthly wages not exceeding three hundred rupees, in any such capacity as is specified in Schedule II,

whether the contract of employment was made before or after the passing of this Regulation and whether such contract is expressed or implied, oral or in writing; but does not include any person working in the capacity of a member of the Mysore State and Palace Troops; and any reference to a workman who has been injured shall, where the workman is dead, include a reference to his dependants or any of them.

(2) The exercise and performance of the powers and duties of a local authority or of any department of the Government shall, for the purposes of this Regulation unless a contrary intention appears, be deemed to be the trade or business of such authority or department.

(3) [The Government after giving by notification in the *Official Gazette*, not less than three months' notice of their intention so to do, may, by a like notification, direct that the provisions of this Regulation shall apply in the case of any person (other than a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business) who is employed by way of manual labour or on monthly wages not exceeding three hunderd rupees in any occupation declared by such notification to be hazardous occupation, or that the said provisions shall apply in the case of any specified class of such persons or in the case of any such person or class to whom any specified injury is caused; and any person in whose case the said provisions are so made applicable shall be deemed to be a workman within the meaning of this Regulation.]

## CHAPTER I.

### WORKMEN'S COMPENSATION

**Employer's liability for compensation**

3. (1) If personal injury is caused to a workman by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Chapter :—

Provided that the employer shall not be so liable :—

(*a*) in respect of any injury which does not result in the total or partial disablement of the workman for a period exceeding [ten] days;

or a contribution paid by the employer of a workman towards any pension or provident fund or a sum paid to a workman to cover any special expenses entailed on him by the nature of his employment;

(*l*) "workman" means any person (other than a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business) who is:—

(i) a railway servant as defined in section 3 of the Mysore Railways Regulation, 1894, not permanently employed in any administrative district or sub-divisional office of a railway and not employed in any such capacity as is specified in Schedule II, or

(ii) employed on monthly wages not exceeding three hundred rupees, in any such capacity as is specified in Schedule II,

whether the contract of employment was made before or after the passing of this Regulation and whether such contract is expressed or implied, oral or in writing; but does not include any person working in the capacity of a member of the Mysore State and Palace Troops; and any reference to a workman who has been injured shall, where the workman is dead, include a reference to his dependants or any of them.

(2) The exercise and performance of the powers and duties of a local authority or of any department of the Government shall, for the purposes of this Regulation unless a contrary intention appears, be deemed to be the trade, or business of such authority or department.

(3) The Government after giving by notification in the Official Gazette, not less than three months' notice of its intention so to do, may, by a like notification, add to Schedule II any class of persons employed in any occupation which it is satisfied is a hazardous occupation, and the provisions of this Regulation shall thereupon apply to such classes of persons:

Provided that in making such additions the Government may direct that the provisions of this Regulation shall apply to such classes of persons in respect of specified injuries only.

## CHAPTER II.

### Workmen's Compensation.

Employer's liability for compensation

3. (1) If personal injury is caused to a workman by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Chapter:—

Provided that the employer shall not be so liable:—

(*a*) in respect of any injury which does not result in the total or partial disablement of the workman for a period exceeding seven days;

**Sections of existing Regulation as they stand.**

(*b*) in respect of any [injury to workman resulting from] an accident which is directly attributable to—

(*i*) the workman having been at the time thereof under the influence of drink or drugs, or

(*ii*) the wilful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workmen, or

(*iii*) the wilful removal or disregard by the workman of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of workmen; [or]

[(*c*) except in the case of death or permanent total disablement, in respect of any workman employed in the construction, repair or demolition of a building or bridge.]

(2) If a workman employed in any employment involving the handling of wool, hair, bristles, [hides or skins] contracts the disease of anthrax, or if a workman whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months in any employment specified in Schedule III, contracts any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section and, unless the employer proves the contrary, the accident shall be deemed to have arisen out of and in the course of the employment.

*Explanation.*—For the purposes of this section a period of service shall be deemed to be continuous which has not included a period of service under any other employer.

(3) The Government after giving by notification in the *Official Gazette* not less than three months' notice of their intention so to do, may, by a like notification, add any description of employment to the employments specified in Schedule III, and shall specify in the case of the employments so added the diseases which shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively, and the provisions of sub-section (2) shall thereupon apply as if such diseases had been declared by this Regulation to be occupational diseases peculiar to those employments.

(4) Save as provided by sub-sections (2) and (3), no compensation shall be payable to a workman in respect of any disease unless the disease is [solely and] directly attributable to a specific injury by accident arising out of and in the course of his employment.

(5) Nothing herein contained shall be deemed to confer any right to compensation on a workman in respect of any injury, if he has instituted in a Civil Court a suit for damages in respect of the injury against the employer or any other person: and no suit for damages shall be maintainable by a workman in any Court of Law in respect of any injury—

(*a*) If he has instituted a claim to compensation in respect of the injury before a Commissioner; or

(*b*) if an agreement has been come to between the workman and his employer providing for the payment of

**Sections as proposed to be amended.**

(*b*) in respect of any injury, not resulting in death, caused by an accident which is directly attributable to—,

(*i*) the workman having been at the time thereof under the influence of drink or drugs, or

(*ii*) the wilful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workmen, or

(*iii*) the wilful removal or disregard by the workman of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of workmen.

(2) If a workman employed in any employment involving the handling of wool, hair, bristles, or animal carcasses or parts of such carcasses, or in the loading, unloading or transport of any merchandise, or in any work in connection with animals infected with anthrax and contracts the disease of anthrax, or if a workman whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months in any employment specified in Schedule III, contracts any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section and unless the employer proves the contrary, the accident shall be deemed to have arisen out of and in the course of the employment.

*Explanation.*—For the purposes of this section a period of service shall be deemed to be continuous which has not included a period of service under any other employer.

(3) The Government after giving by notification in the *Official Gazette* not less than three months' notice of their intention so to do, may, by a like notification, add any description of employment to the employments specified in Schedule III, and shall specify in the case of the employments so added the diseases which shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively, and the provisions of sub-section (2) shall thereupon apply as if such diseases had been declared by this Regulation to be occupational diseases peculiar to those employments.

(4) Save as provided by sub-sections (2) and (3), no compensation shall be payable to a workman in respect of any disease unless the disease is directly attributable to a specific injury by accident arising out of and in the course of his employment.

(5) Nothing herein contained shall be deemed to confer any right to compensation on a workman in respect of any injury, if he has instituted in a Civil Court a suit for damages in respect of the injury against the employer or any other person: and no suit for damages shall be maintainable by a workman in any Court of Law in respect of any injury—

(*a*) If he has instituted a claim to compensation in respect of the injury before a Commissioner; or

(*b*) if an agreement has been come to between the workman and his employer providing for the payment of

**Sections of existing Regulation as they stand.**

compensation in respect of the injury in accordance with the provisions of this Regulation.

Amount of compensation.

4. (1) Subject to the provisions of this Regulation, the amount of compensation shall be as follows, namely:—

*A.* Where death results from the injury,—

(i) [in the case of an adult, a sum equal to thirty months' wages or two thousand five hundred rupees, whichever is less, and]

(ii) in the case of a minor, two hundred rupees;

*B.* Where permanent total disablement results from the injury,—

(i) [in the case of an adult, a sum equal to forty-two months' wages or three thousand five hundred rupees, whichever is less, and

(ii) in the case of a minor, a sum equal to eighty-four months' wages or three thousand five hundred rupees, whichever is less; and]

*C.* Where permanent partial disablement results from the injury,—

(i) in the case of an injury specified in Schedule I, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury, and

(ii) in the case of an injury not specified in Schedule I, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity permanently caused by the injury;

*Explanation.*—Where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable, if permanent total disablement had resulted from the injuries.

*D.* Where temporary disablement, whether total or partial, results from the injury, a half-monthly payment payable on the sixteenth day after the expiry of a waiting period of [ten] days from the date of the disablement and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter,

[(i) in the case of an adult, of fifteen rupees or a sum equal to one-fourth of his monthly wages, whichever is less, and

(ii) in the case of a minor, of a sum equal to one-third, or after he has attained the age of fifteen years, to one half of his monthly wages, but not exceeding in any case fifteen rupees:

Provided that there shall be deducted from any lump-sum or half-monthly payments to which the workman is entitled the amount of any payment or allowance which the workman has received from the employer by way of compensation during the period of disablement prior to the receipt of such lumpsum or of the first half-monthly payment, as the case may be, and no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the workman before the accident exceeds half the amount of such wages which he is earning after the accident.]

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**Sections as proposed to be amended.**

compensation in respect of the injury in accordance with the provisions of this Regulation.

4. (1) Subject to the provisions of this Regulation, the amount of compensation shall be as follows, namely :— Amount of compensation.

*A.* Where death results from the injury,—

(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—the amount shown against such limits in the second column thereof, and ;

(ii) in the case of a minor, two hundred rupees ;

*B.* Where permanent total disablement results from the injury,—

(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—the amount shown against such limits in the third column thereof, and

(ii) in the case of a minor—twelve hundred rupees ;

*C.* Where permanent partial disablement results from the injury,—

(i) in the case of an injury specified in Schedule I, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury, and

(ii) in the case of an injury not specified in Schedule I, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity permanently caused by the injury ;

*Explanation.*—Where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable, if permanent total disablement had resulted from the injuries.

*D.* Where temporary disablement, whether total or partial, results from the injury, a half-monthly payment payable on the sixteenth day after the expiry of a waiting period of seven days from the date of the disablement and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter,

'(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—of the sum shown against such limits in the fourth column thereof, and

(ii) in the case of a minor—of one-half of his monthly wages, subject to a maximum of thirty rupees :

Provided that—(*a*) there shall be deducted from any lumpsum or half-monthly payments to which the workman is entitled the amount of any payment or allowance which the workman has received from the employer by way of compensation during the period of disablement prior to the receipt of such lumpsum or of the first half-monthly payments as the case may be : and

(*b*) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the workman before the accident exceeds half the amount of such wages which he is earning after the accident.

**Sections of existing Regulation as they stand.**

(2) On the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month.

Method of calculating wages

5. For the purposes of [section 4] the monthly wages of a workman shall be calculated as follows, namely:—

(*a*) where the workman has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer, who is liable to pay compensation, the monthly wages of the workman shall be one twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period;

(*b*) in other cases, the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period:

[Provided that the sum arrived at by a calculation under clause (*a*) or (*b*) shall be increased or decreased, as the case may be, to the amount specified in the second column of Schedule IV against the head specified in the first column thereof within the limits of which such sum is included.]

*Explanation.*—A period of service shall, for the purposes of this section, be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days.

Distribution of compensation.

8. [(1) Compensation payable in respect of a workman whose injury has resulted in death shall be deposited with the Commissioner, and any sum so deposited shall be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one such dependant, and the sum so allotted to any dependant shall be paid to him or, if he is a person under any legal disability, be invested, applied or otherwise dealt with for his benefit during such disability in such manner as the Commissioner thinks fit.

(2) Any other compensation payable under this Regulation may be deposited with the Commissioner and, when so deposited, shall be paid by the Commissioner to the person entitled thereto.

(3) The receipt of the Commissioner shall be a sufficient discharge in respect of any amount deposited with him under sub-section (1) or sub-section (2).]

(4) On the deposit of any money under sub-section (1), the Commissioner [may deduct] therefrom the actual cost of the workman's funeral expenses, to an amount not exceeding [fifty] rupees, and pay the same to the person by whom such expenses were incurred, and shall, if he thinks necessary, cause notice to be published or to be served on

**Sections as proposed to be amended.**

(2) On the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month.

5. For the purposes of this Regulation the monthly wages of a workman shall be calculated as follows, namely :— Method of calculating wages.

(*a*) where the workman has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer, who is liable to pay compensation, the monthly wages of the workman shall be one twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period ;

(*b*) where the whole of the continuous period of service immediately preceding the accident during which the workman was in the service of the employer who is liable to pay the compensation was less than one month, the monthly wages of the workman shall be deemed to be the average monthly amount which, during the twelve months immediately preceding the accident, was being earned by a workman employed on the same work by the same employer, or, if there was no workman so employed, by a workman employed on similar work in the same locality ;

(*c*) in other cases, the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation divided by the number of days comprising such period :

8. (1) No payment of compensation in respect of a workman whose injury has resulted in death, and no payment of a lumpsum as compensation to a woman or a person under a legal disability, shall be made otherwise than by deposit with the Commissioner, and no such payment made directly by an employer shall be deemed to be a payment of compensation :

Provided that, in the case of a deceased workman, an employer may make to any dependant advances on account of compensation not exceeding an aggregate of one hundred rupees, and so much of such aggregate as does not exceed the compensation payable to that dependant shall be deducted by the Commissioner from such compensation and repaid to the employer.

(2) Any other sum amounting to not less than ten rupees which is payable as compensation may be deposited with the Commissioner on behalf of the person entitled thereto.

(3) The receipt of the Commissioner shall be a sufficient discharge in respect of any compensation deposited with him ; and

(4) On the deposit of any money under sub-section (1) as compensation in respect of a deceased workman, the Commissioner shall deduct therefrom the actual cost of the workman's funeral expenses, to an amount not exceeding twenty-five rupees, and pay the same to the person by whom such expenses were incurred, and shall, if he thinks necessary,

**Sections of existing Regulation as they stand.**

each dependant in such manner as he thinks fit, calling upon the dependants to appear before him on such date as he may fix for determining the distribution of the compensation. If the Commissioner is satisfied, after any inquiry which he may deem necessary, that no dependant exists, he shall repay the balance of the money to the employer by whom it was paid. The Commissioner shall, on application by the employer, furnish a statement showing in detail all disbursements made.

[(5) Where a half-monthly payment is payable under this Regulation to a person under any legal disability, the Commissioner may, of his own motion or on application made to him in this behalf, order that the half-monthly payment be paid during the disability to any dependant of the workman or to any other person whom he thinks best fitted to provide for the welfare of the workman.]

[(6)] Where, on application made to him in this behalf or otherwise, the Commissioner is satisfied that, on account of neglect of children on the part of a parent or on account of the variation of the circumstances of any dependant or for any other sufficient cause, an order of the Commissioner as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependant is to be invested, applied or otherwise dealt with, ought to be varied, the Commissioner may make such orders for the variation of the former order as he thinks just in the circumstances of the case:

Provided that no such order prejudicial to any person shall be made unless such person has been given an opportunity of showing cause why the order should not be made, or shall be made in any case in which it would involve the repayment by a dependant of any sum already paid to him.

Notice and claim.

10. (1) No proceedings for the recovery of compensation shall be maintainable before a Commissioner unless notice of the accident has been given, in the manner hereinafter provided, as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured, and unless the claim for compensation with respect to such accident has been instituted within six months of the occurrence of the accident or, in case of death, within six months from the date of death:

Provided that, where the accident is the contracting of a disease in respect of which the provisions of sub-section (2) of section 3 are applicable, the accident shall be deemed to have occurred on the first of the days during which the

cause notice to be published or to be served on each dependant in such manner as he thinks fit, calling upon the dependants to appear before him on such date as he may fix for determining the distribution of the compensation. If the Commissioner is satisfied, after any inquiry which he may deem necessary, that no dependant exists, he shall repay the balance of the money to the employer by whom it was paid. The Commissioner shall, on application by the employer, furnish a statement showing in detail all disbursements made.

(5) Compensation deposited in respect of a deceased workman shall, subject to any deduction made under sub-section (4), be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one dependant.

(6) Where any compensation deposited with the Commissioner is payable to any person, the Commissioner shall, if the person to whom the compensation is payable is not a woman or a person under a legal disability, and may, in other cases, pay the money to the person entitled thereto.

(7) Where any lumpsum deposited with the Commissioner is payable to a woman or a person under a legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of the woman, or of such person during his disability, in such manner as the Commissioner may direct; and where a half-monthly payment is payable to any person under a legal disability, the Commissioner may, of his own motion or on an application made to him in this behalf, order that the payment be made during the disability to any dependant of the workman or to any other person whom the Commissioner thinks best fitted to provide for the welfare of the workman; and

(8) Where, on application made to him in this behalf or otherwise, the Commissioner is satisfied that, on account of neglect of children on the part of a parent or on account of the variation of the circumstances of any dependant or for any other sufficient cause, an order of the Commissioner as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependant is to be invested, applied or otherwise dealt with, ought to be varied, the Commissioner may make such orders for the variation of the former order as he thinks just in the circumstances of the case:

Provided that no such order prejudicial to any person shall be made unless such person has been given an opportunity of showing cause why the order should not be made, or shall be made in any case in which it would involve the repayment by a dependant of any sum already paid to him.

(9) Where the Commissioner varies any order under sub-section (8) by reason of the fact that payment of compensation to any person has been obtained by fraud, impersonation or other improper means, any amount so paid to or on behalf of such person may be recovered in the manner hereinafter provided in section 30.

Notice and claim.

10. (1) No proceedings for the recovery of compensation shall be maintainable before a Commissioner unless notice of the accident has been given, in the manner hereinafter provided, as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured, and unless the claim for compensation with respect to such accident has been instituted within six months of the occurrence of the accident or, in case of death, within six months from the date of death:

Provided that, where the accident is the contracting of a disease in respect of which the provisions of sub-section (2) of section 3 are applicable, the accident shall be deemed to have occurred on the first of the days during which the

workman was continuously absent from work in consequence of the disablement caused by the disease :

Provided, further, that the Commissioner may admit and decide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not been instituted, in due time as provided in this subsection, if he is satisfied that the failure so to give the notice or institute the claim, as the case may be, was due to sufficient cause.

(2) Every such notice shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date on which the accident happened, and shall be served on the employer or upon any one of several employers, or upon any person directly responsible to the employer for the management of any branch of the trade or business in which the injured workman was employed.

(3) [The notice may be served by delivering the same at, or sending it by registered post addressed to, the residence or any office or place of business of the person on whom it is to be served.]

workman was continuously absent from work in consequence of the disablement caused by the disease;

Provided further that the want of or any defect or irregularity in a notice shall not be a bar to the maintenance of proceedings—

(*a*) if the claim is made in respect of the death of a workman resulting from an accident which occurred on the premises of the employer, or at any place where the workman at the time of the accident was working under the control of the employer or of any person employed by him, and the workman died on such premises or at such place, or on any premises belonging to the employer, or died without having left the vicinity of the premises or place where the accident occurred, or

(*b*) if the employer had knowledge of the accident from any other source at or about the time when it occurred; and

Provided, further, that the Commissioner may admit and decide any claim to compensation in any case not withstanding that the notice has not been given, or the claim has not been instituted, in due time as provided in this sub-section, if he is satisfied that the failure so to give the notice or institute the claim, as the case may be, was due to sufficient cause.

(2) Every such notice shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date on which the accident happened, and shall be served on the employer or upon any one of several employers, or upon any person directly responsible to the employer for the management of any branch of the trade or business in which the injured workman was employed.

(3) The Government may require that any prescribed class of employers shall maintain at their premises at which workmen are employed a notice-book, in the prescribed form, which shall be readily accessible at all reasonable times to any injured workman employed on the premises and to any person acting *bona fide* on his behalf.

(4) A notice under this section may be served by delivering it at, or sending it by registered post addressed to, the residence or any office or place of business of the person on whom it is to be served, or where a notice-book is maintained, by entry in the notice-book.

Power to require from employers statements regarding fatal accidents.

10A. (1) Where a Commissioner receives information from any source that a workman has died as a result of an accident arising out of and in the course of his employment, he may send by registered post a notice to the workman's employer requiring him to submit, within thirty days of the service of the notice, a statement, in the prescribed form, giving the circumstances attending the death of the workman, and indicating whether, in the opinion of the employer, he is or is not liable to deposit compensation on account of the death.

(2) If the employer is of opinion that he is liable to deposit compensation, he shall make the deposit within thirty days of the service of the notice.

(3) If the employer is of opinion that he is not liable to deposit compensation, he shall in his statement indicate the grounds on which he disclaims liability.

(4) Where the employer has so disclaimed liability, the Commissioner, after such enquiry as he may think fit, may inform any of the dependants of the deceased workman that it is open to the dependants to prefer a claim for compensation, and may give them such other further information as he may think fit.

Reports of fatal accidents.

10B. (1) Where, by any law for the time being in force, notice is required to be given to any authority, by or on behalf of an employer, of any accident occurring on his premises which results in death, the person required to give the notice shall, within seven days of the death, send a report to the Commissioner giving the circumstances attending the death;

Provided that where the Government has so prescribed the person required to give the notice may instead of sending such report to the Commissioner send it to the authority to whom he is required to give the notice.

(2) The Government may, by notification in the *Official Gazette*, extend the provisions of sub-section (1) to any class of premises other

Contracting.

12. (1) Where any person (hereinafter in this section referred to as the principal) in the course of or for the purposes of his trade or business contracts with any other person (hereinafter in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from the principal, this Regulation shall apply as if references to the principal were substituted for references to the employer except that the amount of compensation shall be calculated with reference to the wages of the workman under the employer by whom he is immediately employed.

(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor, and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Commissioner.

(3) Nothing in this section shall be construed as preventing a workman from recovering compensation from the contractor instead of the principal.

(4) This section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the principal has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.

## CHAPTER III.

### Commissioners.

Reference to Commissioners.

18. (1) If any question arises in any proceedings under this Regulation as to the liability of any person to pay compensation (including any question as to whether a person injured is or is not a workman) or as to the amount or duration of compensation (including any question as to the nature or extent of disablement), the question shall, in default of agreement, be settled by [the] Commissioner.

than those coming within the scope of that sub-section, and may, by such notification, specify the persons who shall send the report to the Commissioner.

Contracting.

12. (1) Where any person (hereinafter in this section referred to as the principal) in the course of or for the purposes of his trade or business contracts with any other person (hereinafter in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from the principal, this Regulation shall apply as if references to the principal were substituted for references to the employer except that the amount of compensation shall be calculated with reference to the wages of the workman under the employer by whom he is immediately employed.

(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor, or any other person from whom the workman could have recovered compensation and where a contractor who is himself a principal is liable to pay compensation or to indemnify a principal under this section he shall be entitled to be indemnified by any person standing to him in the relation of a contractor from whom the workman could have recovered compensation, and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Commissioner.

(3) Nothing in this section shall be construed as preventing a workman from recovering compensation from the contractor instead of the principal.

(4) This section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the principal has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.

Penalties

17A. (1) Whoever—

(*a*) fails to maintain a notice-book which he is required to maintain under sub-section (3) of section 10, or

(*b*) fails to send to the Commissioner a statement which he is required to send under sub-section (1) of section 10A, or

(*c*) fails to send a report which he is required to send under section 10B, or

(*d*) fails to make a return which he is required to make under section 15, shall be punishable with fine which may extend to one hundred rupees.

(2) No prosecution under this section shall be instituted except by or with the previous sanction of a Commissioner, and no Court shall take cognisance of any offence under this section, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

## CHAPTER III.

### COMMISSIONERS.

Reference to Commissioners.

18. (1) If any question arises in any proceedings under this regulation as to the liability of any person to pay compensation (including any question as to whether a person injured is or is not a workman) or as to the amount or duration of compensation (including any question as to the nature or extent of disablement), the question shall, in default of agreement, be settled by a Commissioner.

**Sections of existing Regulation as they stand.**

(2) No civil court shall have jurisdiction to settle, decide or deal with any question which is by or under this Regulation required to be settled, decided or dealt with by a Commissioner or to enforce any liability incurred under this Regulation.

Appointment of Commissioners.

19. (1) The Government may, by notification in the *Official Gazette*, appoint the Director of Industries and Commerce or a Deputy Commissioner or a District Judge to be a Commissioner for Workmen's Compensation for such local area as may be specfied in the notification.

[2] Any Commissioner may, for the purpose of deciding any matter referred to him for decision under this Regulation, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry to assist him in holding the inquiry.

[3] Every Commissioner shall be deemed to be a public servant within the meaning of the Indian Penal Code, as it is in force in Mysore.

Venue of Proceedings and transfer.

20. (1) Where any matter is under this Regulation to be done by or before a Commissioner, the same shall, subject to the provisions of this Regulation and to any rules made hereunder, be done by or before, [the] Commissioner for the local area in which the accident took place which resulted in the injury.

(2) If a Commissioner is satisfied by any party to any proceedings under this Regulation pending before him that such matter can be more conveniently dealt with by any other Commissioner, he may, subject to rules made under this Regulation, order such matter to be transferred to such other Commissioner either for report or for disposal, and, if he does so, shall forthwith transmit to such other Commissioner all documents relevant for the decision of such matter and, where the matter is transferred for disposal, shall also transmit in the prescribed manner any money remaining in his hands or invested by him for the benefit of any party to the proceedings:

Provided that no matter other than a matter relating to the actual payment to workman or the distribution among dependants of a lumpsum shall be transferred for disposal under this sub-section to another Commissioner save with the previous sanction of the Government, unless all the parties to the proceedings agree to the transfer.

(3) The Commissioner to whom any matter is so transferred shall, subject to rules made under this Regulation, inquire thereinto and, if the matter was transferred for report, return his report thereon or, if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before him.

(4) On receipt of a report from a Commissioner to whom any matter has been transferred for report under sub-section (2), the Commissioner by whom it was referred shall decide the matter referred in conformity with such report.

Form of application.

21. (1) No application for the settlement of any matter by a Commissioner shall be made unless and until some-

**Sections as proposed to be amended.**

(2) No civil court shall have jurisdiction to settle, decide or deal with any question which is by or under this Regulation required to be settled, decided or dealt with by a Commissioner or to enforce any liability incurred under this Regulation.

Appointment of Commissioners.

19 (1) The Government may, by notification in the *Official Gazette*, appoint the Director of Industries and Commerce or a Deputy Commissioner or a District Judge to be a Commissioner for Workmen's Compensation for such local area as may be specified in the notification.

(2) Where more than one Commissioner has been appointed for any local area, the Government may, by general or special order, regulate the distribution of business between them; and

(3) Any Commissioner may, for the purpose of deciding any matter referred to him for decision under this Regulation, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry to assist him in holding the inquiry.

(4) Every Commissioner shall be deemed to be a public servant within the meaning of the Indian Penal Code, as it is in force in Mysore.

Venue of Proceedings and transfer.

20. (1) Whether any matter is under this Regulation to be done by or before a Commissioner, the same shall, subject to the provisions of this Regulation and to any rules made hereunder, be done by or before a Commissioner for the local area in which the accident took place which resulted in the injury.

(2) If a Commissioner is satisfied by any party to any proceedings under this Regulation pending before him that such matter can be more conveniently dealt with by any other Commissioner, he may subject to rules made under this Regulation, order such matter to be transferred to such other Commissioner either for report or for disposal, and, if he does so, shall forthwith transmit to such other Commissioner all documents relevant for the decision of such matter and, where the matter is transferred for disposal, shall also transmit in the prescribed manner any money remaining in his hands or invested by him for the benefit of any party to the proceedings:

Provided that no matter other than a matter relating to the actual payment to workman or the distribution among dependants of a lumpsum shall be transferred for disposal under this sub-section to another Commissioner save with the previous sanction of the Government, unless all the parties to the proceedings agree to the transfer.

(3) The Commissioner to whom any matter is so transferred shall, subject to rules made under this Regulation, inquire thereinto and, if the matter was transferred for report, return his report thereon or, if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before him.

(4) On receipt of a report from a Commissioner to whom any matter has been transferred for report under sub-section (2), the Commissioner by whom it was referred shall decide the matter referred in conformity with such report.

(5) The Government may transfer any matter from any Commissioner appointed by it to any other Commissioner appointed by it.

Form of application.

21. (1) No application for the settlement of any matter by a Commissioner, other than an application by a dependant or

**Sections of existing Regulation as they stand.**

question has arisen between the parties in connection therewith which they have been unable to settle by agreement.

(2) [Where any such question has arisen, the application] may be made in such form and shall be accompanied by such fee, if any, as may be prescribed, and shall contain, in addition to any particulars which may be prescribed, the following particulars, namely:—

(*a*) a concise statement of the circumstances in which the application is made and the relief or order which the applicant claims;

(*b*) in the case of a claim for compensation against an employer, the date of service of notice of the accident on the employer and, if such notice has not been served or has not been served in due time, the reason for such omission;

(*c*) the names and addresses of the parties; and

(*d*) [a concise statement of the matters on which agreement has and on those on which agreement has not been come to.]

(3) If the applicant is illiterate or for any other reason is unable to furnish the required information in writing, the application shall, if the applicant so desires, be prepared under the direction of the Commissioner.

Powers and procedure of Commissioners.

22. The Commissioner shall have all the powers of a Civil Court under the Code of Civil Procedure, 1911, for the purpose of taking evidence on oath (which such Commissioner is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects.

Registration of agreements.

27. (1) Where the amount of any lumpsum payable as compensation has been settled by agreement, whether by way of redemption of a half-monthly payment or otherwise, or where any compensation has been so settled as being payable [to a person under a legal disability or to a dependant,] a memorandum thereof shall be sent by the employer to the Commissioner, who shall, on being satisfied as to its genuineness, record the memorandum in a register in the prescribed manner:

Provided that—

(*a*) no such memorandum shall be recorded before seven days after communication by the Commissioner of notice to the parties concerned;

[(*b*) where a workman seeks to record a memorandum of agreement between his employer and himself for the payment of compensation and the employer proves that the workman has, in fact, returned to work and is earning the same wages as he did before the accident and object

dependants for compensation shall be made unless and until some question has arisen between the parties in connection therewith which they have been unable to settle by agreement.

(2) An application to a Commissioner may be made in such form and shall be accompanied by such fee, if any, as may be prescribed, and shall contain, in addition to any particulars which may be prescribed, the following particulars, namely:—

(*a*) a concise statement of the circumstances in which the application is made and the relief or order which the applicant claims;

(*b*) in the case of a claim for compensation against an employer, the date of service of notice of the accident on the employer and, if such notice has not been served or has not been served in due time, the reason for such omission;

(*c*) the names and addresses of the parties; and

(*d*) except in the case of an application by dependants for compensation a concise statement of the matters on which agreement has and of those on which agreement has not been come to.

(3) If the applicant is illiterate or for any other reason is unable to furnish the required information in writing, the application shall, if the applicant so desires, be prepared under the direction of the Commissioner.

Power of Commissioner to require further deposit in cases of fatal accident.

21A. (1) Where any sum has been deposited by an employer as compensation payable in respect of a workman whose injury has resulted in death, and in the opinion of the Commissioner such sum is insufficient, the Commissioner may, by notice in writing stating his reasons, call upon the employer to show cause why he should not make a further deposit within such time as may be stated in the notice.

(2) If the employer fails to show cause to the satisfaction of the Commissioner, the Commissioner may make an award determining the total amount payable, and requiring the employer to deposit the deficiency.

Powers and procedure of Commissioners.

22. The Commissioner shall have all the powers of a Civil Court under the Code of Civil Procedure, 1911, for the purpose of taking evidence on oath (which such Commissioner is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects and the Commissioner shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXXV of the Code of Criminal Procedure, 1904.

Registration of agreements.

27. (1) Where the amount of any lumpsum payable as compensation has been settled by agreement, whether by way of redemption of a half-monthly payment or otherwise, or where any compensation has been so settled as being payable to a woman or a person under a legal disability, a memorandum thereof shall be sent by the employer to the Commissioner, who shall, on being satisfied as to its genuineness record the memorandum in a register in the prescribed manner:

Provided that—

(*a*) no such memorandum shall be recorded before seven days after communication by the Commissioner of notice to the parties concerned;

**Sections of existing Regulation as they stand.**

to the recording of such memorandum, the memorandum shall only be recorded, if at all, on such terms as the Commissioner thinks just in the circumstances;]

(*c*) the Commissioner may at any time rectify the register;

(*d*) where it appears to the Commissioner that an agreement as to the payment of a lumpsum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable [to a person under any legal disability or to any dependant,] ought not to be registered by reason of the indequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence or other improper means, he may refuse to record the memorandum of the agreement [or] may make such order including an order as to any sum already paid under the agreement, as he thinks just in the circumstances.

(2) An agreement for the payment of compensation which has been registered under Sub-Section (1) shall be enforceable under this Regulation, notwithstanding anything contained in the Indian Contract Act, 1872, as extended to Mysore or in any other law for the time being in force.

29. (1) An appeal shall lie to the High Court from the following orders of a Commissioner, namely:—

(*a*) an order awarding as compensation a lumpsum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lumpsum;

(*b*) an order refusing to allow redemption of a half-monthly payment;

(*c*) an order providing for the distribution of compensation among the dependants of a deceased workman, or disallowing any claim of a person alleging himself to be such dependant;

(*d*) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of sub-section (2) of section 12; or

(*e*) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions:

Provided that no appeal shall lie against any order unless a substantial question of law is involved in the appeal and, in the case of an order such other than an order as is referred to in clause (*b*), unless the amount in dispute is not less than two hundred rupees:

Provided, further, that no appeal shall lie in any case in which the parties have agreed to abide by the decision of the Commissioner, or in which the order of the Commissioner gives effect to an agreement come to by the parties.

(2) The period of limitation for an appeal under this section shall be sixty days.

(*c*) the Commissioner may at any time rectify the register;

(*d*) where it appears to the Commissioner that an agreement as to the payment of a lumpsum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable to a woman or a person under a legal disability ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence or other improper means, he may refuse to record the memorandum of the agreement and may make such order including an order as to any sum already paid under the agreement, as he thinks just in the circumstances.

(2) An agreement for the payment of compensation which has been registered under Sub-Section (1) shall be enforceable under this Regulation, notwithstanding anything contained in the Indian Contract Act, 1872, as extended to Mysore or in any other law for the time being in force.

Appeals.

29. (1) An appeal shall lie to the High Court from the following orders of a Commissioner, namely:—

(*a*) an order awarding as compensation a lumpsum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lumpsum;

(*b*) an order refusing to allow redemption of a half-monthly payment;

(*c*) an order providing for the distribution of compensation among the dependants of a deceased workman, or disallowing any claim of a person alleging himself to be such dependant;

(*d*) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of sub-section (2) of section 12; or

(*e*) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions:

Provided that no appeal shall lie against any order unless a substantial question of law is involved in the appeal and, in the case of an order such other than an order as is referred to in clause (*b*), unless the amount in dispute is not less than two hundred rupees:

Provided, further, that no appeal shall lie in any case in which the parties have agreed to abide by the decision of the Commissioner, or in which the order of the Commissioner gives effect to an agreement come to by the parties.

Provided further that no appeal by an employer under clause (*a*) shall lie unless the memorandum of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against.

(2) The period of limitation for an appeal under this section shall be sixty days.

(3) The provisions of section 5 of the Mysore Limitation Regulation, 1911, shall be applicable to appeals under this section.

## CHAPTER IV

### RULES.

Power of the Government to make rules.

31. (1) The Government may make rules to carry out the purposes of this Regulation.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) for prescribing the intervals at which and the conditions subject to which an application for review may be made under section 6, when not accompanied by a medical certificate ;

(*b*) for prescribing the intervals at which and the conditions subject to which a workman may be required to submit himself for medical examination under sub-section (1) of section 11 ;

(*c*) for prescribing the procedure to be followed by Commissioners in the disposal of cases under this Regulation and by the parties in such cases ;

(*d*) for regulating the transfer of matters and cases from one Commissioner to another and the transfer of money in such cases ;

(*e*) for prescribing the manner in which money in the hands of a Commissioner may be invested for the benefit of dependants of a deceased workman and for the transfer of money so invested from one Commissioner to another;

(*f*) for the representation in proceedings before Commissioners of parties who are minors or are unable to make an appearance ;

(*g*) for prescribing the form and manner in which memoranda of agreements shall be presented and registered ;

(*h*) for the withholding by Commissioners, whether in whole or in part, of half-monthly payments pending decision on applications for review of the same;

(*i*) for regulating the scales of costs which may be allowed in proceedings under this Regulation ;

(*j*) for prescribing and determining the amount of the fees payable in respect of any proceedings before a Commissioner under this Regulation ;

(*k*) for the maintenance by Commissioners of registers and records of proceedings before them.

(3) The provisions of section 5 of the Mysore Limitation Regulation, 1911, shall be applicable to appeals under this section.

Withholding of certain payments pending decision of appeal.

29 A. Where an employer makes an appeal under clause (*a*), sub-section (1) of section 29, the Commissioner may, and if so directed by the High Court shall, pending the decision of the appeal, withhold payment of any sum in deposit with him.

## CHAPTER IV.

### RULES.

Power of the Government to make rules.

31. (1) The Government may make rules to carry out the purposes of this Regulation.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) for prescribing the intervals at which and the conditions subject to which an application for review may be made under section 6, when not accompanied by a medical certificate;

(*b*) for prescribing the intervals at which and the conditions subject to which a workman may be required to submit himself for medical examition under sub-section (1) of section 11;

(*c*) for prescribing the procedure to be followed by Commissioners in the disposal of cases under this Regulation and by the parties in such cases;

(*d*) for regulating the transfer of matters and cases from one Commissioner to another and the transfer of money in such cases;

(*e*) for prescribing the manner in which money in the hands of a Commissioner may be invested for the benefit of dependants of a deceased workman and for the transfer of money so invested from one Commissioner to another;

(*f*) for the representation in proceedings before Commissioners of parties who are minors or are unable to make an appearance;

(*g*) for prescribing the form and manner in which memoranda of agreements shall be presented and registered;

(*h*) for the withholding by Commissioners, whether in whole or in part, of half-monthly payments pending decision on applications for review of the same;

(*i*) for regulating the scales of costs which may be allowed in proceedings under this Regulation;

(*j*) for prescribing and determining the amount of the fees payable in respect of any proceedings before a Commissioner under this Regulation;

(*k*) for the maintenance by Commissioners of registers and records of proceedings before them;

(*l*) for prescribing the classes of employers who shall maintain notice books under sub-section (3) of section 10 and the form of such notice books;

(*m*) for prescribing the form of statements to be submitted by employers under section 10 A;

(*n*) for prescribing the cases in which the report referred to in section 10 B may be sent to an authority other than the Commissioner; and

(*o*) generally for carrying on all or any of the purposes of this Regulation.

**Sections of existing Regulation as they stand.**

SCHEDULE II.

*See Section* 2 (1) (*l*).

*List of persons who, subject to the provisions of Section* 2 (1) (*l*) *are included in the definition of workman.*

The following persons are workmen within the meaning of Section 2 (*l*) and subject to the provisions of that section, that is to say, any person who is:—

(*i*) employed in connection with the service of a tramway as defined in Section 3 of the Mysore Tramways Regulation, 1906; or

(*ii*) employed within the meaning of clause (2) of Section 2 of the Mysore Factories Regulation, 1914, in any place which is a factory within the meaning of sub-clause (*a*) of clause (3) of that section; or

(*iii*) employed in any mine which is subject to the operation of the Mysore Mines Regulation, 1906;

*Explanation*:—A person is said to be "employed" in a mine who works under appointment by or with the knowledge of the manager, whether for wages or not, in any mining operation, or in cleaning, or oiling any part of any machinery used in or about the mine, or in any other kind of work whatsoever incidental to, or connected with, mining operations.

or,

(*iv*) employed in the construction, repair or demolition of—

(*a*) a building which is designed to be, is, or has been more than one storey in height above ground level, or

(*b*) a building which is, has been or is designed to be, not less than twenty feet in height measured from ground level to apex of the roof, or

(*c*) a bridge which is, has been or is designed to be more than fifty feet in length;

or

(*v*) employed in setting up, repairing, maintaining, or taking down any telegraph or telephone line or post or any overhand electric cable;

or

(*vi*) employed in the construction, inspection or upkeep of any underground sewer; or

(*vii*) employed in the service of any fire brigade.

**Sections as proposed to be amended:**

32A. The Government may by notification in the Official Gazette make rules for the transfer to any part of British India or other States in India of money paid to a Commissioner under this Regulation for the benefit of any person residing or about to reside in such part and for the receipt and administration in Mysore of any money awarded under the law relating to workmen's compensation in any such part and applicable for the benefit of any person residing or about to reside in Mysore.

## SCHEDULE II

The following persons are workmen within the meaning of section 2 (1) (l) and subject to the provisions of that section, that is to say, any person who is—

(i) employed otherwise than in a clerical capacity or on a railway in connection with the operation or maintenance of mechanically propelled vehicles used for the carriage of passengers for hire or for industrial or commercial purposes ; or

(ii) employed within the meaning of clause (2) of section 2 of the Mysore Factories Regulation, 1914, in any place which is a factory within the meaning of sub-clause (*a*) of clause (3) of that section ; or

(iii) employed for the purpose of making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale any article or part of an article in any premises wherein or within the precincts whereof on any one day of the preceding twelve months, fifty or more persons have been so employed ; or

(iv) employed in the manufacture or handling of explosives in any premises wherein, or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been so employed ; or

(v) employed in any mine which is subject to the operation of the Mysore Mines Regulation, 1906 ;

*Explanation.*—A person is said to be " employed " in a mine who works under appointment by or with the knowledge of the manager, whether for wages or not, in any mining operation, or in cleaning, or oiling any part of any machinery used in or about the mine, or in any other kind of work whatsoever incidental to, or connected with, mining operations.

*Or*

(vi) employed in the construction, repair or demolition of—

(*a*) any building which is designed to be or is or has been more than one storey in height above the ground or twenty feet or more from the ground level to the apex of the roof ; or

(*b*) any dam or embankment which is twenty feet or more in height from its lowest to its highest point ; or

(*c*) any road, bridge, or tunnel ; or

(vii) employed in setting up, repairing, maintaining, or taking down any telephone line or post or any over-head electric line or cable or post or standard for the same ; or

(viii) employed, otherwise than in a clerical capacity, in the construction, working, repair or demolition of any aerial ropeway, canal, pipe-line, or sewer ; or

(ix) employed in the service of any fire brigade ; or

(x) employed upon a railway as defined in clause (4) of section 3, of the Mysore Railways Regulation, 1894, either directly or through a sub-contractor, by a person fulfilling a contract with the railway administration ; or

(xi) employed, otherwise than in a clerical capacity, in connection with operations for winning natural petroleum or natural gas ; or

(xii) employed in any occupation involving blasting operations ; or

(xiii) employed in the making of any excavation in which on any one day of the preceding twelve months more than fifty persons have been employed or explosives have been used, or whose depth from its highest to its lowest point exceeds twenty feet ; or

(xiv) employed in the operation of any ferry boat capable of carrying more than ten persons ; or

(xv) employed, otherwise than in a clerical capacity, on any estate which is maintained for the purpose of growing coffee, rubber or tea, and on which on any one day in the preceding twelve months twenty-five or more persons have been so employed ; or

**Sections of existing Regulation as they stand.**

(xvi) employed, otherwise than in a clerical capacity, in the generating, transforming or supplying of electrical energy or in the generating or supplying of gas; or

(xvii) employed in producing cinematograph pictures intended for public exhibition or in exhibiting such pictures; or

(xviii) employed in the training, keeping or working of elephants or wild animals; or

(xix) employed as a diver.

*Explanation.*—In this Schedule, 'the preceding twelve months' relates in any particular case to the twelve months ending with the day on which the accident in such case occurred.

## SCHEDULE III.

*(See Section 3.)*

*List of occupational diseases.*

| Occupational disease | Employment |
|---|---|
| Lead poisoning or its sequelæ ... | Any process involving the use of lead or its preparations or compounds. |
| Phosphorus poisoning or its sequelæ | Any process involving the use of phosphorus or its preparations or compounds. |

**Sections as proposed to be amended.**

## SCHEDULE III.

*(See Section 3.)*

*List of occupational diseases.*

| Occupational disease | Employment |
|---|---|
| Lead poisoning or its sequelæ ... | Any process involving the use of lead or its preparations or compounds. |
| Phosphorus poisoning or its sequelæ. | Any process involving the use of phosphorus or its preparations or compounds. |
| Mercury poisoning or its sequelæ ... | Any process involving the use of mercury or its preparations or compounds. |
| Poisoning by benzene and its homologues, or the sequelæ of such poisoning. | Handling benzene or any of its homologues—and any process in the manufacture or involving the use of benzene or any of its homologues. |
| Chrome ulceration or its sequelæ ... | Any process involving the use of chromic acid or bichromate of ammonium, potassium or sodium, or their preparations. |
| Compressed air illness or its sequelæ ... | Any process carried on in compressed air. |
| Miners' Phthisis or silicosis ... | Any occupation wherein the mineral dust is such as to cause silicosis. |
| Cyanide rash ... ... ... | The handling of cyanide or any work involving the use of cyanide. |

## SCHEDULE IV.

(See Section 5.)

*Table of assumed wages.*

| Limits | | Assumed wages | | Limits | | Assumed wages | |
|---|---|---|---|---|---|---|---|
| Where the sum arrived at by a calculation under clause (*a*) or clause (*b*) of Section 5 is— | | | | Where the sum arrived at by a calculation under clause (*a*) or clause (*b*) of Section 5 is— | | | |
| | Rs. a. p. | Rs. a. p. | Rs. a. p. | | Rs. a. p. | Rs. a. p. | Rs. a. p. |
| Less than ... | 9 0 0 | ... | 8 0 0 | Not less than ... | 32 8 0 but less than | 37 8 0 | 35 0 0 |
| Not less than ... | 9 0 0 but less than | 11 0 0 | 10 0 0 | ,, ... | 37 8 0 ,, ... | 42 8 0 | 40 0 0 |
| ,, ... | 11 0 0 ,, ... | 13 0 0 | 12 0 0 | ,, ... | 42 8 0 ,, ... | 50 0 0 | 46 4 0 |
| ,, ... | 13 0 0 ,, ... | 17 8 0 | 15 4 0 | ,, ... | 50 0 0 ,, ... | 60 0 0 | 55 0 0 |
| ,, ... | 17 8 0 ,, ... | 22 8 0 | 20 0 0 | ,, ... | 60 0 0 ,, ... | 70 0 0 | 65 0 0 |
| ,, ... | 22 8 0 ,, ... | 27 8 0 | 25 0 0 | ,, ... | 70 0 0 ,, ... | 80 0 0 | 75 0 0 |
| ,, ... | 27 8 0 ,, ... | 32 8 0 | 30 0 0 | ,, ... | 80 0 0 ,, ... | ... | 83 5 4 |

**Sections as proposed to be amended.**

SCHEDULE IV.

*(See Section 4.)*

**Compensation Payable in certain Cases.**

| Monthly wages of the workman injured | | Amount of compensation for | | Half-monthly payment as compensation for Temporary Disablement of Adult |
|---|---|---|---|---|
| | | Death of Adult | Permanent total Disablement of Adult | |
| 1 | | 2 | 3 | 4 |
| More than | But not more than | | | |
| Rs. | Rs. | Rs. | Rs. | Rs. a. |
| 0 | 10 | 500 | 700 | Half his monthly wages |
| 10 | 15 | 550 | 770 | 5 0 |
| 15 | 18 | 600 | 840 | 6 0 |
| 18 | 21 | 630 | 882 | 7 0 |
| 21 | 24 | 720 | 1,008 | 8 0 |
| 24 | 27 | 810 | 1,134 | 8 8 |
| 27 | 30 | 900 | 1,260 | 9 0 |
| 30 | 35 | 1,050 | 1,470 | 9 8 |
| 35 | 40 | 1,200 | 1,680 | 10 0 |
| 40 | 45 | 1,350 | 1,890 | 11 4 |
| 45 | 50 | 1,500 | 2,100 | 12 8 |
| 50 | 60 | 1,800 | 2,520 | 15 0 |
| 60 | 70 | 2,100 | 2,940 | 17 8 |
| 70 | 80 | 2,400 | 3,360 | 20 0 |
| 80 | 100 | 3,000 | 4,200 | 25 0 |
| 100 | 200 | 3,500 | 4,900 | 30 0 |
| 200 | ... | 4,000 | 5,600 | 30 0 |

## VI. General Principles of the Bill to Amend the Mysore Workmen's Compensation Regulation, XIV of 1928.

**The SECRETARY to GOVERNMENT, DEVELOPMENT DEPARTMENT (Mr. M. Venkatanaranappa)** explained the general principles of the bill as follows:—

"The present Workmen's Compensation Regulation, No. XIV of 1928, was based on the British Indian Act of 1923. The Indian Act has since undergone three amendments in 1926, 1929 and 1933, respectively.

"The Workmen's Compensation Act of 1923 was experimental in character and the amendments introduced in 1926 and 1929 were designed to remedy admitted defects and embody changes of a non-controversial character. Subsequently, the Royal Commission on Labour reviewed the entire position in the light of further evidence supplied to them and made a number of recommendations on the subject. The Government of India, in following them closely, have passed a further amending Act in 1933 embodying a large number of suggestions contained in the Report of the Royal Commission.

"The changes in the law on the subject enacted in British India are found to be generally suitable to the conditions in Mysore and it is therefore proposed to undertake legislation on similar lines in Mysore by an amending bill.

"The more important changes proposed to be introduced are explained below.

"The definition of the term 'dependant' has been so recast as to divide them into two categories, placing in the first, those who are practically in all cases actually dependent, and in the second, those who may or may not be in that position. Certain additions have been made to the second category by the inclusion of illegitimate children and widowed daughters-in-law.

"The reference to manual labour in Section 2 (1) (*l*) has been omitted as there are no manual labourers in Mysore in receipt of more than Rs. 300 per mensem. The waiting period of ten days specified in proviso (*a*) of sub-section (1) to Section 3 of the Regulation is proposed to be reduced to seven days.

"Under the existing exemption in proviso (*b*) of Section 3 (1) of the Regulation, the employer is not liable to pay compensation when the accident is due to specific misconduct on the part of the workman. It is now proposed to amend the section so as to make the exception inapplicable in the case of fatal accidents, as it is extremely diffi-

cult for the dependants to rebut evidence that the accident was caused by the misconduct of the deceased, specially where the employer's defence is that the workman disobeyed a 'safety' rule.

"The provision in Section 3 (4) of the Regulation limits the liability of the employer to pay compensation in the case of non-scheduled diseases to those solely and directly attributable to the specific injury. As this is unduly stringent and diseases rarely if ever can be regarded as due solely to any one cause, the words 'solely and' are proposed to be omitted in the above sub-section.

"An important change proposed to be made is the revision of the scale of compensation payable as in Schedule IV of the Regulation and the method of calculating the wages. The effect of these amendments is to enhance the compensation payable for death and for permanent disablement in the case of the more poorly paid workmen and those who are in receipt of higher wages. Compensation for temporary disablement would also be enhanced for most workmen. In place of 14 wage classes as at present, 17 have been substituted. The compensation payable in respect of a permanent total disablement of a minor is proposed to be fixed at Rs. 1,200. Both the minimum and the maximum amounts of compensation for permanent total disablement have been raised, as also the maximum half-monthly payment on account of temporary disablement.

"In the regulation as it stands, compensation is expressed in terms of monthly wages in most cases in Section 4. It is now proposed to make certain drafting changes in Section 4 (1) so that the fiction of 'assumed wages' will disappear, and the actual amount of compensation payable can be arrived at in most cases by a reference to the revised Schedule IV read with the instructions for the calculation of the wages in Section 5.

"As it has been found that the limit of Rs. 50 fixed in Section 8 of the Regulation for payment towards funeral expenses is unnecessarily high and the payment of such amounts has led to abuses, it is proposed to reduce it to Rs. 25.

"Under the present Regulation a dependant who finds that no compensation has been deposited on account of the death of a workman has first to approach the employer. It is now laid down that no payment can be made by an employer in respect of fatal accidents or to a woman or a person under legal disability, except by deposit with the Commissioner.

"A provision has been added under Section 8 for the recovery of amounts of compensation obtained by fraud, false impersonation or other improper means.

"The requirements of the existing Section 10 of the Regulation as regards

notice are found to be too stringent. There are a number of cases in which no notice is necessary and the want of a notice should not be a bar to further proceedings in cases where the employer is proved to have had the knowledge of the accident. A further proviso to this effect has been added after sub-section (1) in Section 10.

"Provision has been made for the maintenance by specified classes of employers of Notice Books on their premises readily accessible to workmen.

"The Commissioner has been empowered to require from employers statements regarding fatal accidents, and power is taken for reports of fatal accidents being made to the Commissioner promptly.

"With a view to remedy a defect in the law as it now stands, it has been now provided that a contractor may recover from a sub-contractor or any other person from whom the workmen could have recovered the compensation, the amounts advanced by such contractors on behalf of the sub-contractor.

"Under the existing Regulation no penalties have been provided for failure to submit returns under Section 15. A new section has been inserted as Section 17A, to remedy this defect.

"The present Regulation provides for the appointment of only one Commissioner for an area; it is now proposed to take power for the appointment of more than one Commissioner having jurisdiction over the same area and to regulate the work between them.

"It is proposed to empower the Commissioner to call for a further deposit from the employer in the case of fatal accidents when the sum already deposited by the employer is found to be insufficient.

"It is doubtful if under the present Regulation the Commissioner can, without statutory authority, withhold payment of compensation, pending the result of an appeal to the High Court. It is now proposed to give him this power.

"With a view to have a more convenient system of distribution of compensation amounts payable under the Regulation, it is proposed to have a new section to provide for the transfer, to other parts of British India and Indian States, of the amounts of compensation awarded in Mysore in cases where the persons entitled to them have left Mysore and are residing in British India or an Indian State and for the receipt and administration of amounts awarded outside Mysore in respect of persons who are residing or about to reside in Mysore.

"The list of persons included in the definition of 'workmen' in Schedule II of the present Regulation has been so enlarged as to include persons employed in branches of industries which are both organised and hazardous. The British Indian Act has included an entirely new class of work-

men, the workers on the plantations. But it is expected that the increase in the number of possible claims on account of this will by no means be proportionate to the increase in the number of workers brought under the Regulation.

"To the occupational diseases included in Schedule III of the existing Regulation, it is proposed to add diseases mentioned in Schedule III of the British Indian Act, XV of 1933, and in addition, silicosis or miners' phthisis and cyanide rash with reference to special conditions obtaining in the Kolar Gold Field area."

**Mr. S. K. VENKATARANGA IYENGAR** asked for information as to whether workmen on coffee estates had been brought under the definition of 'workman' and what was the basis for the sentence included in the statement of general principles, *viz.*, ". . But it is expected that the increase in the number of possible claims on account of this will by no means be proportionate to the increase in the number of workers brought under the Regulation."

**Mr. M. VENKATANARANAPPA** replied that the number of claims for compensation would not necessarily increase with the number of workmen on the estates.

**Mr. T. RAMACHANDRA** congratulated the Government on having brought forward the measure which he thought was undoubtedly a progressive measure of labour legislation. But he thought that there were some points which required to be considered more liberally.

First, though the employer's liability to pay compensation would in future commence on the 8th day of the disablement of a worker instead of on the 11th day as at present—for which the thanks of the workers were due to Government—still, wages in the case of illness for even less than 7 days were to be given because, otherwise, the workers would have nothing to eat in the meanwhile. Generally speaking, workers who were all ill-paid could not lay by anything, and were utterly unable to keep body and soul together even for short periods of illness. It was common knowledge that they had to earn each day's bread and even a day without wage meant positive starvation in their case. Hence he suggested that a clause be inserted providing for payment of wages in the case of illness for even less than 7 days. If this was not considered possible, he requested that, at least, the minimum period of absence from duty be reduced to 5 days.

**The FIRST MEMBER (Rajamantrapravina Diwan Bahadur K. Matthan)** replied that the worker must be able to manage for such short periods at least. It was not desirable to place factory owners in Mysore in a more disadvantageous position than those in British India.

**Mr. T. RAMACHANDRA** then suggested that other workers like cooks in hotels be also declared entitled to compensation.

**Mr. K. MATTHAN** replied that their case might be examined.

**Mr. B. SRINIVASA RAO** observed that the provision about the liability to pay compensation should not be made applicable to small industrial concerns and private parties. For instance, if a *cooly* was engaged in building or repairing a house and sustained an accident in the course of that work, the house-owner might be regarded as employer for purposes of this Regulation and made liable to pay compensation. Such a thing, he said, should under no circumstances be stipulated.

**Mr. K. MATTHAN** replied that the suggestion about petty industrialists would be noted, but that there was no reason to think that house-owners would have to compensate wage-earners employed for short periods on repairing or building private buildings. In such cases generally the *coolies*, though employed for short periods on behalf of private house-owners, would have been employed on a more or less permanent basis by contractors and it might be the duty of the contractor concerned to compensate the wage-earner sustaining the accident.

**Mr. J. MAHOMED IMAM** also congratulated the Government on having brought forward the measure. He said that owners of large concerns made huge profits only with the help of their labourers, and it was but reasonable that they should help the labourers in times of distress. For this reason, he supported the bill. But the bill required improvement in certain respects. He was glad that the burden of proof was shifted from the labourer to the employer. And in cases where the employer was able to prove that an accident or even death was due to carelessness on the part of a labourer naturally no question of compensation would arise. In this view he suggested that the words "not resulting in death" occurring after the word "injuries" in Section 3 (*b*) be omitted.

**Mr. K. MATTHAN** replied that this point would be considered in select committee.

**Mr. C. N. NARASINGA RAO** also spoke in support of the measure. He thanked the Government for introducing it though the bill provided for the barest minimum claims of labourers and workmen. And he was also glad that for purposes of distribution of compensation amounts, the word "dependant" was proposed to be defined as those including illegitimate children and widowed daughters-in-law of a deceased wage-earner. But there might be yet other dependants such as widowed sisters and daughters, sisters' sons, etc., who might also be left in the lurch on account of the death of the wage-earner. He therefore suggested

that the words "and any other person actually depending on such workman" be added at the end of the definition.

**Mr. K. MATTHAN** replied that the point might be examined. After all, it would not affect the employer because it was only a question of distribution of the same amount of compensation among all the dependants. But Government could not go on adding to the list which would have to stop at some point or other. Subject to some such reservation, he said that the question, that whoever was actually dependent upon the deceased for maintenance should receive part of the benefit of the compensation, might be examined in the select committee.

**Mr. C. N. NARASINGA RAO,** continuing, observed that the definition of "qualified medical practitioner" seemed to be somewhat too vague and was not found even in the British Indian Act. He wanted that it should be specifically laid down that the term included only persons registered under the Medical Practitioners' Registration Regulation.

**Mr. K. MATTHAN** accepted the suggestion on behalf of the Government.

**Mr. C. N. NARASINGA RAO** then requested that casual workers also might be included in the list of persons entitled to compensation though the British Indian Act contained no such provision. He pointed out that in order to fulfil the benevolent intention of the Regulation, it must be made applicable to all classes of employees, whether engaged on monthly or daily wages. By adopting this suggestion, Mysore would be stealing a march over British India in this respect.

**Mr. K. MATTHAN** replied that this Regulation was not confined to cases of accidents due to employers' negligence. The risks contemplated in the bill were only those to which employees were ordinarily subject. But nowhere in the world had the principle of casual workers also being compensated for injuries sustained by them been recognized. Further, there was no idea that the law in Mysore in this respect should go any further than that in force in British India. For these reasons, he regretted it was not possible to accept the above said view.

**Mr. C. N. NARASINGA RAO** said that there would be some difficulty in stipulating that only monthly wage-earners would be entitled to compensation. If this was the law, every private employer would prefer, in order to escape payment of compensation, to show even permanent employees as daily wage-earners though payment might continue to be made once a month.

**Mr. M. A. GOPALASWAMI IYENGAR** pointed out that the term "who is employed otherwise than for the purpose of the employers' trade or business" would include casual workers also.

**Mr. C. N. NARASINGA RAO** then said that the benefit of doubt should be given to the workman in all cases in

which the employer was unable definitely to prove that any accident was due to the worker's own negligence.

**Mr. K. MATTHAN** replied that that point might be examined.

**Mr. L. VEMA REDDY,** while generally supporting the measure under discussion, feared that even private agriculturists employing a large number of labourers during times of harvest might become liable to pay compensation to workmen sustaining injuries in the course of their work. He requested that the provision about compensation should not be made applicable to such cases.

**Rao Sahib M. RAMASWAMY** also joined in making the same request.

**Mr. K. MATTHAN** stated that there was no such idea. But at the same time he would ask whether a well-to-do agriculturist who was able to employ as many as 30 or 40 *coolies* for reaping a rich harvest should not be willing to afford some little relief to a poor *cooly* who might suffer injuries. But the point need not be laboured so long as the House generally agreed that the chief purpose of the measure should be that if anybody suffered on another's account, the latter should sympathise with the former and pay him something for relieving his distress.

**Mr. M. S. CHANNABASAPPA** enquired whether sub-clause (iii) of Schedule II would apply to large scale agriculturists employing 50 or more persons on purely agricultural work.

**Mr. K. MATTHAN** drew the member's attention to the definition of the term "workman" as given in Schedule II and said that it would not apply to agriculturists, agriculture not being a dangerous occupation.

**Mr. R. C. MORRIS** pointed out that clause (xv) of the schedule would apply to coffee estates. Presumably the workmen thereon might suffer injuries in felling rocks or trees. In this view, he wanted to know if there could be any objection to the managers of coffee estates insuring their labour and taking out policies from recognised companies as was being done under the Madras Act.

**Mr. K. MATTHAN** replied that there could be no objection to making a similar provision in Mysore also.

**Mr. P. SUBBARAMA CHETTY** prefaced his remarks with the observation that this legislation was copied from British India, which in its turn must have copied its law from England. Conditions in India being quite different from those in Western countries, he did not know why such laws should be copied from the West without considering their effect on factory owners and other large employers of labour in this country. He observed that in an important matter like this affecting trade and commerce, the Mysore Chamber of Commerce and Merchants' Associations should have been consulted before the bill was drafted. He

had also his own misgivings as to whether the provisions in the bill were adequate enough to safeguard all the interests concerned. On account of continued economic depression in the country since 1929, this was hardly the time to add to the liabilities of employers.

But these observations, he said, should not be understood as meaning that he was opposed to the principle of helping those in distress. In fact, once legislation was taken up, he would suggest that even cases of permanent injury not resulting in death, though caused by the labourers' own negligence, deserved to be treated with greater sympathy. He pointed out that the compensation payable for temporary injuries had been enhanced in the amending bill and enquired whether any prayer for such enhancement had been received in that behalf.

**Mr. K. MATTHAN** pointed out that even apart from petitions received in that behalf, it was a case of justice due to the workmen, and that the employers would not suffer any great hardship on account of the Regulation. He added that it was however open to the employers to protect themselves by insuring their labourers against risks by cutting down their wages, if need be, provided of course they could attract labour on such reduced wages.

**Mr. P. SUBBARAMA CHETTY** then suggested that employees in hotels and restaurants might also be given the benefit of compensation in all cases of accidents. He acknowledged this as an age of labour, and as he himself was a capitalist he was afraid that even if he raised objections to particular provisions of the bill, they might not command support in the House. He, however, added that Government should always try to safeguard the interests of both capital and labour and that taking sides as in the case of the bill under discussion, would not make for the prosperity of the State, especially in view of the fact that there were barely a few businessmen in the State who were worth some lakhs of rupees.

**Mr. JATHARE NAIK** lent unqualified support to the bill under contemplation.

**Mr. K. CHENGALARAYA REDDY** complimented the Government upon bringing in this measure which aimed at improving the lot of the workmen. The proposed amendments were very belated in Mysore since the law in British India had already been amended and improved on three occasions. He was particularly glad to find that the previous speaker, himself a large employer of labour, was inclined to give his general support to the bill—a circumstance which showed that even in the opinion of capitalists, workmen deserved to be protected.

As all the provisions in the amending bill were already in force in British India and were working satisfactorily,

he had no hesitation in giving his support to the bill.

As regards the definition of "workman," he thought it was not quite comprehensive as it related only to those employed on monthly wages. He was afraid that the case of workmen in the Kolar Gold Field mines might not be covered by the provisions of the bill as they were all engaged on weekly wages.

**Mr. K. MATTHAN** replied that it was intended to apply to all workmen who were employed continuously from month to month even if their wages were paid at shorter intervals.

**Mr. T. RAMACHANDRA** pointed out that if the word "casual" was properly defined, the difficulty raised by the previous speaker would be solved.

**Mr. K. MATTHAN** promised to examine the definition once again.

**Mr. K. CHENGALARAYA REDDY** enquired if his presumption that the bill would apply to drivers of all motor vehicles plying for hire was correct.

**Mr. K. MATTHAN** replied in the affirmative.

**Mr. K. CHENGALARAYA REDDY** concluded with the observation that it would have been better if it was made applicable to private cars also.

**Mr. Belur SRINIVASIENGAR** was not in favour of the provision allowing discretion to the Commissioner in the case of pending appeals to withhold payments due to a workman unless so directed by an order of the High Court. He feared that the High Court might take long to pass final orders on the appeal of the employer and in such cases, he thought that it would not be fair to keep the dependants of the workman waiting till then. He suggested the inclusion of a section to guide the High Court as to the principles to be followed in passing final orders. He also wanted provision to be made for review applications from the dependants of wage-earners and added that discretionary power should be vested in the Commissioner to make payment to the dependants even before the review application was disposed of, if necessary after taking proper security from them. He appealed to the Government to delete sub-section (*h*) and substitute some other provisions which would be really beneficial to the workers and make the amount of compensation readily available to the dependants. He finally requested the adoption of Sections 33 and 34 of the British Indian Act, which would give satisfaction to both labourers and their dependants.

**Mr. S. K. VENKATARANGA IYENGAR** while thanking the Government for the liberal measures contained in the bill, said that certain points could be made clearer and more definite. Though it was explained on behalf of Government that casual labourers also would receive compensation, he pointed out that the word "casual" had not been defined in the Regulation. He

therefore suggested the term being defined so as to make even daily wage-earners eligible for compensation provided they were men kept on for long periods.

As regards dependants declared eligible for shares in the amount of compensation awarded, he was of opinion that the analogy of Hindu law which applied to properties, need not be strictly followed in the case of payment of compensation and that the provision might be suitably amended so as to bring in foster-children also within the definition. Otherwise, some of the dependants would be left in the lurch, and in some cases, due to the absence of particular kinds of dependants, the money would go back to the employer himself. As the word "dependant" might lead to many rebuttable presumptions, it should either be made more definite or plainly left to the Commissioner and the Court. Personally he would suggest that instead of restricting the definition of dependants, foster-children or sisters' daughters or sisters' sons might also be enabled to get the benefit of compensation. If this was accepted, the bill would be an improvement even over the British Indian Act.

He also supported Mr. Subbarama Chetty's suggestion that permanently disabled men should also be given compensation though the injuries might not result in death.

As the British Indian Act included workmen employed in any manufacturing process, the member suggested the inclusion of such men also in the definition of " workman " in the bill.

**Mr. K. MATTHAN** replied that the question of revising sub-clause (ii) of Schedule II would be taken up along with amendments to the Factories Regulation, as the two should go side by side.

In conclusion, **Mr. VENKATARANGAIYENGAR** said that since the Model State of Mysore was anxious to join the Federal Legislature and since the bill under reference would come under Central Legislation, he appealed to the Assembly to pass it without any hesitation.

**Mr. K. T. BHASHYAM AIYANGAR** speaking on behalf of wage-earners, expressed his thanks to the Government for having brought in this measure. He was glad that the measure had received the support of all the members who had so far spoken. Even Mr. Subbarama Chetty was not opposed to it. All that he wanted was that in case the employers of labour suffered any set-back, Government should take steps to better them also. The speaker had no doubt that Government would be quite prepared to do so if necessary.

The original Regulation included within its scope all " mechanically propelled vehicles, " whereas in the proposed amendment, it was restricted to those plying for hire. He thought that that amendment was unnecessary.

**Mr. K. MATTHAN** explained that the intention of Government was not to apply it to private motor owners, though in the British Indian Act they had omitted the words " for hire. " But he added there was nothing to prevent the members from proposing a further extension of the application of the provision in the Legislative Council.

As regards Section 29 A. **Mr. BHASHAYAM AIYANGAR** said that he could not support Mr. Belur Srinivasiengar's view. He was for payment being made only after the High Court passed orders, as otherwise it might lead to complications.

He agreed with some of the previous speakers that the word " workman " should be more liberally defined. He also did not want that the benefit of compensation should be restricted only to cases where the employment of the labourer was on monthly basis. Otherwise he feared that the employers might modify the terms of employment suitably to their own convenience.

**Mr. K. MATTHAN** explained that if employers went on modifying the terms of appointment of workmen, they could not get sufficient labour. And in case they resorted to any kind of tricks with a view to evade the law, the Government could be relied upon to deal with them adequately.

**Mr. K. T. BHASHYAM AIYANGAR** also supported Mr. Venkataranga Iyengar's plea on behalf of casual labourers, disabled temporarily for a period of 7 days at a time.

*The general principles of the bill were then put to vote and passed.*

## IX. Bill to amend the Workmen's Compensation Regulation, 1928.

(a) *Motion that the Bill published under Rule 8 of the Rules of Business be read in Council.*

**The SECOND MEMBER (Mr. N. Madhava Rau).**—Sir, I beg to move that the Bill to amend the Workmen's Compensation Regulation which has been published under Rule 8 of the Rules of Business be read in Council.

The intentions and the scope of this piece of legislation have been explained in detail in the statement of objects and reasons attached to the bill. The most important changes in the existing law which the bill seeks to introduce are the general enlargement of the various classes of workmen who are entitled to compensation and the enlargement in the scales of compensation. The effect of the new scales would be to enhance compensation payable to the most poorly paid and to the best paid worker. They will also have the result of increasing in varying degrees compensation in the case of temporary disablement. The removal of provisos laid down in Section 3, sub-section (*i*) limiting the employer's liability in the case of fatal accidents, the recasting of the definition of "dependant", the reduction of the period of waiting for the payment of compensation in cases of temporary disablement from ten to seven days and the addition of a number of occupational diseases to the list already covered by the existing Regulation, are some of the important features of the bill.

I hope, sir, that the bill which is intended for the betterment of the lot of the workers of the State along lines already adopted in British India will commend itself to this House.

**The GENERAL SECRETARY to GOVERNMENT (Mr. M. Venkatesa Iyengar).**—Sir, I beg to second the motion.

**Rajacharita Visarada Rao Sahib C. HAYAVADANA RAO:**—Sir, I want to say a few words on this bill. Any legislation that is intended to further the interests of labour will, I think, have the wholehearted support of this hon'ble House. This, I think, goes without saying. It does seem to me that this particular measure which is being taken from the allied British Indian enactment, follows, almost that Act *ipsissima verba*. But two things will have to be remembered in regard to this legislation. While we all welcome a measure which is intended to liberalise relief in various directions, especially in regard to disabled workmen, it behoves all of us to judge the character of the amendments proposed from the point of view of the state of industry in this country. That is the first point I should particularly urge on the attention of this hon'ble House. Not every amendment that is proposed in British India, for

instance in advanced cities like Bombay or Calcutta or, for the matter of that, Madras, is possible of adoption here. There are conditions there which are entirely different and legislation that might be intended for a portion of British India, which is so much advanced industrially and where conditions of industrial life are entirely different from those obtaining here and which, indeed, have absolutely no bearing at all on the local situation, ought to be viewed with a critical eye. I do not, of course, mean that I stand to oppose this measure. I want to support it, but in a manner which reason will sanction. It does seem to me, sir, that the few suggestions that were made by the hon'ble the Mover introducing the Bill which have been elaborated in the Objects and Reasons require careful consideration. They are set out very briefly and in a manner which is susceptible of easy understanding by almost every member of this hon'ble House, whether he is concerned with large firms or with small business houses, which employ either skilled or unskilled labour. I will not go through the whole list, but I should certainly think that there are at any rate something like 23 amendments, if not 26, if I have counted correctly, because there are some subsidiary amendments as well, which are sought to be included in the amending bill. At least ten of these would require very careful examination. For instance, there was one thing mentioned by the hon'ble the Mover in introducing the bill and that was about the waiting period. The waiting period has been reduced from ten days to seven days. There are other clauses especially those which refer to the amount to be paid in fatal accidents. There are various other clauses under section 3 (*a*), etc. There are also some very interesting amendments made here which might require close attention from the point of view of the employer. But there are other things to be considered from the point of view of the employee also. I do not deny that the Government have looked at both sides of the question. But all these points will, I think, be closely examined in the select committee. I think one of the most important things for the select committee would be to look to the state of industry in this state and the character of the amendments proposed; whether they are wholesome and capable of adoption and whether they are compatible with the development of industry in this country. The true test would be whether any particular amendment suggested is necessary from the employee's point of view and whether it is in keeping with the spirit of industrial development which is in the air and which is so much desired in this country. These are the primary points of view from which I would test the changes proposed. Of course, the whole objective is that while labour gets everything that is necessary, the industry is so treated that it is not crippled and its

progress not barred. That would be against the declared industrial policy of the Government. We must see that industry develops. At the same time, we should see to it that the worst features of western industrialism are not introduced into this land. Industry is still in its infantile stage in this country. So, while I support this measure, I would much like to support it in a reasoned manner and to an extent which is not incompatible with the development of industry in this land.

**Mr. T. RAMACHANDRA.**—Sir, this is a very important measure, since it gives labourers and workmen a great security in their employment and also it makes it incumbent upon the employer to provide health and safety devices in his establishment. I thank the Government for having brought this measure, which they should have brought two years back. The idea of compensation to workmen in accidents is accepted all over the world as a part of the employer's liability, not only on humanitarian considerations, but also on the consideration that industry itself must bear the cost of the accidents. The amending bill before the House, as *Rao Sahib* Hayavadana Rao said, contains 26 amendments and it would have been intelligible to the members if the amendments had been given side by side with sections of the existing Regulation, so that the members of the House could see where the amendment should have to fit in. I hope when the bill goes before the select committee, the amendments will be printed along with the original Regulation for the use of the members of the Committee.

With regard to the procedure laid down in the bill *re*: payment of compensation and powers of the Commissioner I have very little to say. As regards waiting period, I should like to make a plea to the Government. Although the period has been reduced from ten days to seven days, still in view of the poor wages earned by the labourer and the loss of pay owing to his being out of work on account of accident, it will mean very great hardship and therefore I appeal to Government and the employer either to agree to reduce the period of waiting to three days as in England or pay retrospective allowance from the date of the accident in cases where they are proved to be genuine. What I am proposing is not a new thing. In 1930, the Welfare Committee of the Binny Mills made an appeal to the Management and asked them to give the allowance during the waiting period and the Management agreed to pay compassionate allowance from the 4th day of the accident in all deserving cases.

Coming now to the selection of the classes of workmen who are entitled to compensation, it is necessary to include all workmen in all factories, not necessarily factories coming within the definition of "factory" in the Factories Regulation, because in the Regulation, the Government have taken power to

declare or not to declare any concern as a "factory." So in the case of factories which have not been declared as such by the Government, the workmen suffering from accidents will lose the benefit of compensation. The word "workman" should be defined and workmen working in all factories whether declared as such or not, should get compensation.

Then, there is the question of clerks. It is stated "except in a clerical capacity." I am aware that in mills, printing presses, railways, and other departments, clerks have to go round the works, mark attendance, make payments, take measurements, supply raw materials and do various other things. If in the course of discharging their duty they meet with accidents, are they not to be paid compensation just because they are clerks? So the words "except in a clerical capacity" will have to be deleted. I know of an instance of a clerk noting the number of bales in a factory losing his very life. His dependents could not claim any compensation.

Let me now come to the question of those engaged in commercial transport. Will you consider the conductors and cleaners of motor vehicles as 'clerks' or as 'mechanics?'

Nextly, there is no mention made as regards compensation to casual workmen—those who work for less than 30 days.

Then, sir, as regards those employed in the manufacture of explosives under Schedule II, sub-section 4, it is said "only in places where more than 10 persons are employed that compensation is to be paid." Explosives are used in this country for social, religious and *tamasha* purposes and in the manufacture of these explosives usually three or four persons are employed. Explosives, many times, give rise to accidents. I really wish that conditions will be made so stringent that no explosives will be manufactured for any purpose. It will be very easy for an explosives manufacturer to escape punishment if you say "in places where..... ten persons are employed."

**The FIRST MEMBER (Rajamantrapravina S. P. Rajagopalachari).**—We can discuss all these details in the select committee provided the principle of the bill is approved now. May I suggest that?

**Mr. T. RAMACHANDRA.** -I will briefly touch upon one or two more points. Compulsory insurance of workmen is a very important one. Unless it goes hand in hand with this measure, small factory-owners will suffer. If any accidents happen in small factories, the factory owners will be at a loss to know how to pay compensation to the injured workmen. Therefore I believe that some kind of compulsory insurance in the case of small factories and bus owners should be insisted upon.

I am very glad that plantations have been included in the measure. I only hope that those employed in reserve

forests under Government will also receive the benefit of compensation.

Now in the case of misconduct only, fatal accidents are given exemption. In the Indian Legislative Assembly when the same bill was under consideration, the case of those who are permanently disabled was taken up and it was pressed that they should also be given compensation, though the accident was caused wilfully.

Another important and necessary point is this. Without some sort of support to the workmen either by a group of lawyers helping them or some labour welfare organization, it is not possible for them to get all the claims to which they are entitled. Or else, there should be organised trade unions to help them. In the case of Ahamadabad where the organisation is working well, we find that the Trade Union takes up all the cases of compensation and secures for the employees more than Rs. 50,000 every year. And this fact has been commended even by the Factory Inspectors of Bombay. I hope in this State also we will have the Trade Union Act by which trade unions will be placed on a statutory basis; and they will take up the cause of securing compensation to the workmen, and lawyers who are interested in the welfare of these people will assist them.

One more point. The Commissioners appointed under the Regulation should be those who have specialised knowledge of the Regulation and should not be coupled with other appointments which are transferable from place to place. New officers posted with frequent changes may not be able to follow what the condition of labour may be.

Regarding medical practitioners, now that Government have been encouraging the Ayurvedic and Unani systems of medicine by establishing an Ayurvedic and Unani College at Mysore, the pandits in these systems of medicine may be also notified as qualified to give certificates, because poor labourers cannot afford to go to big doctors and pay them.

With these remarks, I support the bill.

*Mr. J. MAHOMED IMAM.—Sir, I have great pleasure in supporting this bill, but at the same time not to the extent to which my friend Brahmachari has done. He wants that ever so many things should be included in the Regulation. While I urge that every kind of help should be rendered to the workmen, I feel at the same time that we should take into consideration also the hardship that may be caused to the employers. It should not be partial. It must be reasonable to some extent. I am afraid a few of the amendments may work as a great hardship to the employers. Especially the amendment of Section 3 (*a*) is one such. If the death of a workman is caused either due to his own negligence or otherwise, the employer will be liable to pay compensation. In the original Regulation, it was clear that if the death was caused

due to negligence of the workman, there was no liability on the employer to pay compensation. But the amendment now proposed would force the employer to give compensation whether the death is due to the workman's own negligence or otherwise. This will be a very severe measure to the employer. At least the employer must be allowed to prove that the death was not caused in the course of work, but was caused by the negligence of the workman. A man may be under the influence of drink or he might die due to some other cause. Then, why should the employer pay compensation? Supposing a driver of a motor car takes the car without his master's permission and dashes it against a tree, who is to pay compensation? How do you expect the employer to pay compensation in addition to his having lost his car? According to the amendment, the employer has to pay compensation. In the list of workmen, you have included drivers also. It often happens that the owner himself gets killed. In fact, the driver will be mainly responsible for the death of his master under such circumstances. So a case may arise when the driver will have to give compensation to his master.

**Mr. N. MADHAVA RAU.**—It is only public service vehicles that are included.

**Mr. J. MAHOMED IMAM.**—Drivers should not be included in the list of workmen entitled to compensation.

**Mr. M. VENKATANARANAPPA.**—It is a misprint for *diver*.

**Mr. J. MAHOMED IMAM.**—Thank you. But are drivers included or not?

**Mr. N. MADHAVA RAU.**—Not of private motor cars.

**Mr. J. MAHOMED IMAM.**—It must be made quite clear. Apart from that, this section does work as a hardship and if it is proved that death is due to the negligence of the workman himself or his being under the influence of drink, then, the employer should not be held responsible. Some relief should be given to the employer in such cases.

Also, it is stated that if anybody employed in a dangerous trade catches disease, he is entitled to compensation. It is better to add the word "solely" in the clause relating to this. Such verbal modifications must be made. However I support the rest of the bill.

***Mr. K. T. BHASHYAM AIYANGAR.**—In according my support to this bill, I wish to say only one word. It is very kind of the Government that they have brought in a bill of this kind and one or two clauses appeal to me most. One such clause is that money should be deposited with the Commissioner so that the party may have a guarantee of getting it on issuing receipt. Another is that where a person loses his life, the plea that he himself was negligent and therefore not liable for compensation for the loss of his life would not be made hereafter. There are several other clauses, but I will not dilate on them. I wish however to add one word and it is this. Compensation amounts are

amounts which are recoverable by parties after certain evidence being let in, and in all such cases, they require the help of somebody. I would suggest as Mr. Ramachandra said that a Trade Union legislation be passed, if you want labourers to realise the full effects of this measure. Otherwise, this will not be of so much help to them. There must be somebody who will help them to realise the benefits of this measure. I would therefore appeal to you that following on this, the Trade Union Legislation also be passed quickly.

**Mr. N. MADHAVA RAU.** –Several suggestions have been made in the course of the discussion. They are more or less in the nature of tentative suggestions, but the general sense of the House appears to be in favour of the proposed legislation. With regard to waiting period being reduced from 7 days to 3 days, I wish to say that we have already reduced it from 10 to 7 days. You may even say " reduce it to nothing." We have taken the middle course and I hope we are about correct.

Suggestions have been made that an insurance scheme should be established for workmen. I do not think that quite arises in the course of this legislation. The suggestion made by Mr. Ramachandra that Trade Union Act should be passed so that the workmen might have the skilled assistance of trade union members, also does not come within the purview of this piece of legislation. As regards the criticism of Mr. Mahomed Imam that the liability of the employer is unnecessarily increased in the case of fatal accidents, I wish to say that this matter, as the members of this House are aware, has received very careful consideration of the Royal Commission on Labour. In a case where a workman dies, it is very difficult for the relatives of the workman to rebut the plea that the employer might set up that the workman was under the influence of intoxication or that he had neglected some rules of safety that had been prescribed for him. After a very careful consideration of this, they have suggested that in case of fatal accidents that plea ought not to be permitted, *viz.*, that of carelessness, intoxication and so on.

There is one other point with reference to the proposed inclusion of Miner's Phthisis or Silicosis. It is proposed that it should be made subject to certain conditions of medical examination. In order that that might be possible within the frame-work of this bill, one or two clauses will have to be either amended or newly inserted. All these matters can be gone into in the select committee. Now that we are all agreed about the principles of the bill, I request that it may be put to vote.

**Mr. PRESIDENT.**—The question is:

" That the Bill to amend the Workmen's Compensation Regulation, 1928, be read in Council."

*The motion was adopted.*

(b) *Motion that the Bill be referred to a select committee.*

**Mr. N. MADHAVA RAU.**—Sir, I beg to move that the bill be referred to a select committee consisting of the following members :—

1. Mr. H. D. Sinclair,
2. Mr. S. Abdul Wajid,
3. Mr. M. Venkatanaranappa,
4. *Sastravaidya Pravina* Dr. S. Subba Rao,
5. *Rajacharita Visarada Rao Sahib* C. Hayavadana Rao,
6. Mr. K. T. Bhashyam Aiyangar,
7. Mr. T. Ramachandra,
8. Mr. M. Ramachandra Rao Sindia, and the Mover.

**Mr. M. VENKATANARANAPPA.**—Sir, I beg to second the motion.

**Mr. PRESIDENT.**—The question is :

" That the Bill to amend the Workmen's Compensation Regulation, 1928, be referred to a select committee consisting of the members mentioned above."

*The motion was adopted.*

* *

*The House adjourned at* 4-50 *p.m., to meet again at* 12 *noon the following day.*

GS 117

OORGAUM P.O.
S. INDIA.

December. 31. 1935.

Dear Mr.Madhava Rao,

In the course of my recent conversation with the Dewan, Mr.Rajagopalachari and yourself on the subject of the inclusion of Silicosis in the list of occupational diseases under the proposed amended Workmen's Compensation Regulation, you were good enough to say that it was Government's intention to co-opt a representative of the Mining Companies to sit on the Select Committee to which the amended Bill had been referred after its first reading at the recent session of the Legislative Council. I then mentioned the name of our Chief Medical Officer Dr.L.P.Stokes as probably the most suitable representative but undertook to let you know definitely who we wished to propose. I have now had the opportunity of giving the question my further consideration and confirm that we should like Dr.Stokes to be invited to sit on the Select Committee.

With kind regards,

Yours sincerely,

Sydney F. Taylor

N.Madhava Rao, Esq.,B.A.,B.L.,
Member of Council,
Bangalore.

99/118

Serial No.

Draft reply submitted.

Dr. L. P. Tessitori invited to be present at the sittings of the S. C under S.O. 52 (2nd Member)

6/1/36



WD 03594—GPB—30,000—18-7-35

Appendix F G—1]

SUBJECT..... 119

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*Diary No. of letter replied to*.....

General and Revenue Secretariat

( )

*the* *193*

Date of issue..... 2/1/35.

Signed by N. Mitchell-Thomson

List of enclosures.....

Copied by .....

Examined by.....

**Section**

**File No.**

**Serial No.** 214

No. P 4291

To M. Sydney Taylor,

Dear Sir

I am in receipt of your letter of the 31st Dec 35 and I am glad to know that the Select committee to consider the Bill to amend the Workman's Compensation Act. will have the benefit of the views of the Solicitor of Dr. J. P Stokes Bar during its deliberations

The date of the meeting with the interested parties will be communicated to you

Yours —

WD 03601—GPB—30,000—23-9-35

Sydney V. Taylor Esq
K.C.-7

4713/35
P
(RO D 1343

*"I seek not Kingdom, nor Paradise, nor even Salvation;*
*I seek only the Deliverance from Affliction of the Afflicted."*

# Deena Seva Sangha

**CENTRES OF WORK:**

1. SEVA ASHRAM, MALLESWARAM.
2. LABOURERS' FELLOWSHIP SCHOOL, SESHADRIPURAM.
3. SRI RAMAKRISHNA FREE SCHOOL, COTTONPET.
4. DEENA SEVA FREE DISPENSARIES. MALLESWARAM & SESHADRIPURAM.
5. DEENA VIDYARTHI ASHRAM, SESHADRIPURAM.

Malleswaram-Bangalore
Date 28th Jan. 1936

To

N. Madhava Rao Esq. B.A., B.L.
Secons Member of Council
Govt. of Mysore.
Bangalore.

M144.....

Dear Sir.

I have a special request to make of you. I am leaving for Delhi tonight to attend the meeting of the All-India Harijan Board, and from there I go to Lucknow to fix up the Stalls for the Mysore State Rural Industries in the forthcoming Khadi & Village Industries Exhibition there. I shall be back in Bangalore on the 10th March, 1936.

I request you to kindly fix up the meeting of the Select Committee on the Workmen's Compensation Bill, some date after 10th March '36. and

*President:*
SJT. DEVA RAO SHIVARAM

*Vice-President:*
MISS RUTH E. ROBINSON

*Treasurer:*
SJT. V. VENKATESIAH

*Secretary:*
SJT. RAMACHANDRA

**AIMS & OBJECTS**

1 To promote the moral and material well-being of the masses & educate them and their children by conducting Settlements, Schools, Orphanages, Bhajanas, etc., and to train them for citizenship.

2 To carry on propaganda against the evils of Drink, Insanitation, Intemperance and Inhuman practices, and also Social Inequalities and vices.

3 To train and maintain a band of missionary self-sacrificing workers for the carrying on of the above objects & aims.

2

Thus enable me to participate in the Committee.

Thanking you,

I remain,

Ever yours in Service,

D. Ramachandra

Appendix F G—1]

SUBJECT.....

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Section

File No.

Serial No.

*Diary No. of letter replied to*.....

No. P5707-14 in

To 1.) S. Abdul Wajid Esq B.

2) H. D. Sivaswamy Esq V.I

3) Sri. Vedula Venkataramanay
Esq B.

4) Sardar Viswanadhyapura
Veera Dr S. Subbarao R
B.A., Sri. B.C.M.
L.R.C.P

5) Sri. T. Bhashyam
Sriyuths Ayyar Esq
B.A., B.L

6) Rajasthanavisarada
Rao Sahib
Sri. C. Hayavadana
Rao, B.A., B

7) Sri. Ramachandra
Rao Sundara Esq.

8) T. Ramachandra
Member i.e
a meeting of the Select

Committee appointed to
Consider the Bill to
amend the Workmen
Compensation Rules
with be held in the

General and Revenue Secretariat

(  )

*the* *193*

Date of issue 27-2-36

Signed by Sri. C.S.I

List of enclosures.....

Copied by .....

Examined by.....

WD 03601—GPB—30,000—23-9-35

12 3

Chambers of the Secretary

Ministry of Commerce, Public

Offices Buildings, Bangalore

at 1 P.M on Wednesday

the 9th March 1986

B.O

Secy to C

Copy to P.A to Secretary ✓

" A.C Office ✓

" C.B. ✓

Sly

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

General and Revenue Secretariat, 124

No. P 5707-14 *Dated Bangalore, the* 27th February 1936

OFFICIAL MEMORANDUM.

A meeting of the Select Committee appointed to consider the Bill to amend the Workmen's Compensation Regulation will be held in the c hambers of the Second Member of Council, Public Office Buildings, Bangalore, at 1 P.M. on Wednesday the 25th March 1936.

By Order,

Secretary, Legislative Council.

Appendix F G—1]

SUBJECT.....

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General and Revenue Secretariat

( )

*the* *193*

Date of issue 27.2.36

Signed by Jr. C.S.I

List of enclosures.....

Copied by .....

Examined by.....

**Section**

**File No.**

**Serial No.**

*Diary No. of letter replied to*..... D.O. No. P 8715

To

Dear Sir,

A meeting of the Select Committee to be appointed to consider the Bill to amend the Workmen's Compensation Regn. will be held in the Chamber of the Secretary, Council of State Buildings, Bangalore at 1 P.M. on Wednesday the 25th March 1936. I am directed to request you to kindly be

B26

At Government to be present at the meeting for giving the Committee the benefit of your views on the subject of the distribution of Sphygmosis in the list of Occupations.

Yours sincerely,

C

Q.

Dr L. P. Shortes

Chief Medical & Sanitary Officer of the Gold Mining Companies

K.G.7

~~Copy to P.A~~

Copy to L.C Office ✓

G.B ✓

SG

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

*Bangalore, Dated,* 29th February 1936.

*D. O. No.* D. 5715

Dear sir,

A meeting of the Select Committee appointed to consider the Bill to amend the Workmen's Compensation Regulation will be held in the chambers of the Second Member of Council, Public Office Buildings, Bangalore, at 1 P.M. on Wednesday the 25th March 1936. I am desired to request you to kindly make it convenient to be present at the meeting for giving the Committee the benefit of your views.

Yours sincerely,

Dr. L.P. Stokes,
Chief Medical and Sanitary Officer
of the Gold Mining Companies,
Kolar Gold Fields.

5647/1935

# MYSORE MEDICAL DEPARTMENT

*Telephone* No. 215

OFFICE OF THE SENIOR SURGEON IN MYSORE,

No. 2L.C. 310
Encl.-

*Bangalore, dated the* 10/3/ *1936.*

OF THE SECRETARY
10 MAR 1936
LEGISLATIVE COUNCIL

FROM

SASTRAVAIDYA PRAVINA
S. SUBBA RAO, ESQ., B.A., M.B.C.M., M.R.C.S. (Eng.), L.R.C.P., D.P.H.,
*Senior Surgeon with the Government of H. H. the Maharaja of Mysore.*

To

The Secretary,
Legislative Council, Bangalore.

Sir,

With reference to your Memo No.P.5707-14 dated 27-2-1936 about the meeting of the Select Committee to consider the Workmen's Compensation Regulation, I have the honour to state that as I will be attending the special convocation to be held at Mysore on the same date, it will not be possible for me to attend the Select Committee meeting.

The meeting has been changed into 23/3/36

SC 10/3

CL 12/8/35

I have the honour to be,
Sir,
Your most obedient servant,
S. Subba Rao
Senior Surgeon.

(Prof. B.V. W.C)

CSR. 11.3.36

Appendix F G—1]

18 copies

SUBJECT.....

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Section

File No.

Serial No.

*Diary No. of letter replied to*.....

General and Revenue Secretariat

( )

*the* *193*

Date of issue 18.3.36

Signed by Dr. C.S.J

No. P6052-9

To

1) S. Abdul Wajid Esq B.A

2) H. D. Sinclair Esq I.C.S

3) Dr. Venkataramanappa Esq B.A

4) Sarvadhikari Praveena Dr. S. Subba Rao B.A., Dr. B.C.L. Bar-at-Law

5) K. T. Bhashyam Iyengar Esq B.A.B.L

6) Rajaharitalu Venkata Rao Sahib Hon. C. Kameswara Rao B.A.B.L

7) Dr. Ramaiah Andhra Ratna Sastri Sindhu Esq

8) T. Ramachandra Esq. Member Legislative Council.

~~9) Dr. L. P. Stokes~~ Chief Medical & Sanitary Officer of the Gold Mining Company of India & Ceylon Ltd

In modification of G.O. No P 5707-14 dt 27-2-36 the meeting of the Select Committee appointed to examine

List of enclos.....

Copied by .....

Examined by.....

The Bill to amend the Workmen's Compensation Regulations will be laid in the Chambers of the Second Member of Council, Public office Building Bangalore at 1 P.M. on Monday the 23rd March 1936 instead of Wednesday the 25th March

B.O

P 6060 ~~The~~ Secretariat

Copy of the above is forwarded with compliments to Dr. L.P. Wilkie Chief Medical & Sanitary Officer of the Kolar Gold Mines Companies, Lucampet Reefs K.G.F. in continuation of Finance Office No S 715 dt 27/2/36

Copy to P.A. to Second Member
C.B
L.C Officer

56

131

**GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.**

**General and Revenue Secretariat,**

No. P6052-9

*Dated Bangalore, the...10th...March.....193 6*

T/

## OFFICIAL MEMORANDUM.

In modification of Official Memorandum No. P. 5707-14, dated 27th February 1936, the meeting of the Select Committee appointed to consider the Bill to amend the Workmen's Compensation Regulation will be held in the Chambers of the Second Member of Council, Public Offices, Buildings, Bangalore, at 1 P.M. on Monday 23rd March 1936 instead of Wednesday the 25th March 1936.

By Order,

Sd/- C. Subrahmanya Aiyar,

Secretary,
Legislative Council.

To Abdul Majid, Esq., B.A., Director of Industries and Commerce in Mysore, Bangalore.
H.E. Sinclair, Esq., V.D., Agent, Mysore Railways.
M. Venkatanarasappa, Esq., B.A., Secretary to Government, Development Department.
Rajavaidya Praveena Dr. C. Subba Rao, B.A., M.D.C.M., L.R.C.P., Senior Surgeon in Mysore, Bangalore.
T.T. Bhashyam Aiyangar, Esq., B.A., B.L., Member, Legislative Council.
Rajacharitavisaradha Rao Sahib C. Hayavadana Rao, Esq., B.A., B.L. Member, Legislative Council, Bangalore.
M. Ramachandra Rao Scindia, Esq., Member, Legislative Council, Bangalore.
A. Ramachandra Esq., Member, Legislative Council, Bangalore.

S 464 835
P

THE KOLAR GOLD FIELD HOSPITAL,
CHAMPION REEF,
S. INDIA.

2nd March 1936.

132

Dear Sir,

Ref: D.O.No.P5715 of 27-2-36

I shall be very pleased to attend the meeting of the Select Committee at 1 P.M. on Wednesday, March 25th.

Yours faithfully,

L. P. Shore

C. Subramoney Iyer Esq.,
General & Revenue Secretariat,
Government of Mysore,
Bangalore.

Subd. for perusal
Sec 4/3/36.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

General and Revenue Secretariat, 133

No. P 6052-9 Dated Bangalore, the 10th March 193 6

OFFICIAL MEMORANDUM.

In modification of Official Memorandum No. P. 5707-14, dated 27th February 1936, the meeting of the Select Committee appointed to consider the Bill to amend the Workmen's Compensation Regulation will be held in the Chambers of the Second Member of Council, Public Officers Buildings, Bangalore, at 1 P.M. on Monday 23rd March 1936 instead of Wednesday the 25th March 1936.

By Order,

d/- C. Subrahmanya Aiyar,

Secretary,
Legislative Council.

To Abdul Majid, Esq., B.A., Director of Industries and Commerce in Mysore, Bangalore.
J. Sinclair, Esq., V.D., Agent, Mysore Railways.
T. Venkatanarasappa, Esq., B.A., Secretary to Government, Development Department.
Rajamantravaidya Pravina Dr. T. Subba Rao, B.A., M.B.C.M., L.R.C.P., Senior Surgeon in Mysore, Bangalore.
T.S. Bhashyam Aiyangar, Esq., B.A., B.L., Member, Legislative Council.
Rajacharitavisaradha Rao Sahib C. Hayavadana Rao, Esq., B.A., B.L., Member, Legislative Council, Bangalore.
T. Ramachandra Rao Scindia, Esq., Member, Legislative Council, Bangalore.
T. Ramachandra Rao, Member, Legislative Council, Bangalore.

scy

Appendix F G—1]

SUBJECT.....

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*Diary No. of letter replied to*.....

General and Revenue Secretariat

( )

*the* *193* .

Date of issue 27-3-36

Signed by Sec. C.S.A

List of enclosures.....

Copied by .....

Examined by.....

**Section**

**File No.**

**Serial No.**

No. P 6410-1 C./Sec

To

1) S. Abdul Wajid Esq B.A

2) H. D. Sanjeevaiah Esq V.D

3) Sri. Venkatswamanappa Esq B.A

4) Sarvasri Gopalaswamy Ramanna Dr. S. Subba Rao B.A., M.B.C.M.

5) K. T. Bhashyam Aiyangar Esq B.A., B.L.

6) Rajacharlu Visvanadha Rao Sahib C. Hayavadana Rao Esq., B.A., B.L.

7) Sri Ramachandra Rao Sahib Esq

8) D. Ramachandra Esq

The Registrar.

The adjourned meeting of the Select Committee appointed to consider the Bill to amend the Workmen's Compensation Regn. will be held

135

in the Chambers of the

Secretary to the Treasury

Council, Public Offices

Buildings, Bangalore

at 11 A.M. on Monday the

6th April 1936

B.O

Secy to Govt &c

No. P6418 dt 27.3.36.

Copy of the above as forwarded

with compliments to

Dr. L. P. Stokes Chief

Medical & Sanitary Officer

of the Kolar Mining Company

Champion Reefs K.G.F

B

Secy L.

copy to: P.A. to Secretary

" C.B.

" L-C Officer

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE. 136

General and Revenue Secretariat,

No. P 6410-17 *Dated Bangalore, the....25th March.....193 6*

27

## OFFICIAL MEMORANDUM.

The adjourned meeting of the Select Committee appointed to consider the Bill to amend the Workmen's Compensation Regulation, will be held in the Chambers of the Second Member of Council, Public Office Buildings, Bangalore at 1 P.M. on Monday the 6th April 1936.

By order,

Sd. C.Subramanya Aiyar.

Secretary,
Legislative Council.

S.Abdul Majid, Esq., B.A., Director of Industries and Commerce in Mysore, Bangalore.
H.L.Sinclair, Esq., V.D., Agent, Mysore Railways.
M.Venkatanarasappa, Esq., B.A., Secretary to Government, Development Department.
Sastravaidya Pravina Dr.S. Subba Rao, B.A., M.B.C.M., L.M.S., Senior Surgeon in Mysore, Bangalore.
K.T.Bhashyam Aiyengar, Esq., B.A., B.L., Member, Legislative Council
Rajacharitavisarada Rao Sahib C.Hayavadana Rao, Esq., B.A., B.L., Member, Legislative Council, Bangalore.
M.Ramachandra Rao Scindia, Esq., Member, Legislative Council, Bangalore.
T.Ramachandra Esq., Member, Legislative Council, Bangalore.

137 6031 8/35

MEDICAL OFFICER

THE KOLAR GOLD FIELD,
CHAMPION REEF, P. O.,
SOUTH INDIA.

28th March 1936.

Railway Station & Post Office: Champion Reef.

C. Subramanya Aiyar Esq.,

Secretary,

Legislative Council,

Bangalore.

Dear Sir,

I have to acknowledge receipt of General and Revenue Secretariat Memorandum No.P.6410-17 of the 25th March 1936 and note therefrom that the adjourned meeting of the Select Committee for the Workmen's Compensation Regulation Amendment will be held at Bangalore on Monday, the 6th proximo at 1 P.M.

Yours faithfully,—

L. P. Swan

Chief Medl. & Sany. ~~Officer,~~
Kolar ~~Gold~~ Field.

URU- A 188-1000-3-1-36

S/7.25 1/38 p 655

**MYSORE RAILWAYS**

All communications should be addressed to the Agent, Mysore Railways, Mysore by TITLE, not by NAME

**AGENT'S OFFICE.**

Mysore, 14th March 193 6.

No. 1000 /Fl.

Encls.

*From*

*THE AGENT,*

*Mysore Railways,*

*MYSORE.*

*To*

The Secretary,

Legislative Council,

General and Revenue Secretariat,

Bangalore.

Sir,

Your memo No.P.6052-9 dated 10/11th March 1936.

With reference to the Select Committee meeting which has now been put forward to the 23rd instant, I have the honour to state that in connection with the penultimate Saturday and Sunday and a holiday on Tuesday, Government have sanctioned me a day's casual leave on Monday the 23rd instan with permission to leave the station. I shall therefore be unable to attend the meeting on the 23rd instant.

I have the honour to be,

Sir,

Your most obedient servant,

Agent.

Seen. for perusal.

See 16/3/36.

16/3/36

A.S.

139

Serial No.

These proposed amendments have not yet been adopted in the Indian Act. We are following the Indian Act as it is. We may reserve these for a subsequent amendment after they are considered & adopted in the Indian Legislature, if they happen to be taken up there. Re following are remarks in regard to the proposed amendments:—

1) This requires proper consideration. It is the Gold Mines that largely use Compressed air & they must have sufficient notice to consider about this.

2) Even as it is, the term "monthly wages" does not mean wages paid by the month. It only means what would amount to the monthly wages if calculated in the manner prescribed in Section 5. The amendment is not quite necessary

3) The Explanation does refer to the Section

4) Under Sec 19(1) in default of agreement, the matter has to be settled by agreement Even if when there is an agreement, its validity may be contested on the ground of error apparent on the face of the record when it comes up before the Commissioner for

NOTE—Contn Sheet.

WD 03594—GPB—30,000—13-7-35

registration. I am generally the special provision for review or proposed appeal to be necessary

5) & 6) ~~Agreed~~ These are merely verbal changes to make the meaning clear

7) The amendment proposed is not clear

8) & (9) Verbal - may be adopted

~~Agreed~~ 10) The context shows that 'treatment' includes 'treatment'

No change appears to be necessary, as it is a matter for interpretation of the High Court so as to uphold its provisions

12) ... vicle is propelled by 'electricity' as an electrical car, it will be 'mechanically propelled' ultimately by the electric motors driving shaft, etc. Electricity takes the place of power supplied by petrol explosion. Amendment is unnecessary

2nd Member

6
4/4/36

Submitted also copy of typed proceedings of the last meeting, & a draft report embodying the decisions arrived at (Bibliography is only tentative)

Ce
4/4/36

MM
5/4/36

62:80/38
P
141



Serial No.

Secs. with a draft
returning the Govt letter
to Director of Prisons

Sa
8/4.

Dr

6/8/4

Issued No 6730/8/11/4.

TYPING SECTION,
9. APR. 1936
GENL & SECTT.



WD 03594—GPB—30,000—18-7-

Appendix F G—1]

SUBJECT ..... 112

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.....

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the 193

Date of issue 11.4.36

Signed by Sec. C.S.D.

List of enclosures.....

Copied by WG/14.

Examined by.....

**Section**

**File No.**

**Serial No.**

D-O

No. F 6730 (Sec 3)

To

Dear Sir,

I am [illegible]

herewith D.O No L 835

dt 24-3-36 of this Govt

letter by your self the

Select Committee

meeting, I am desired

to state that the

amendments to S.S

were adopted not

The other amend

ments were not adop

as the sections to

which they relate

are not proposed

to be amended in

the Bill before the
Select Committee.

Yours truly,

W

To: Andrew Wright Esq. U.S.
Director of Industries
& Commerce

1111

D. O. No. P 6730/Sec 3

GENERAL AND REVENUE SECRETARIAT,

*Dated, Bangalore* 9th APRIL 1936.

11

Dear Sir,

In returning herewith D.O.No.L.835 dated 24th March 1936 of Mr.Clowe left by you at the Select Committee meeting, I am desired to state that the amendments to Section 5 were adopted.

The other amendments were not adopted as the sections to which they relate are not proposed to be amended in the Bill before the Select Committee.

Yours sincerely,

S.Abdul Wajid, Esq., B.A.,

Director of Industries and Commerce in Mysore.

Proceedings of the (second) meeting of the Select Committee on the Bill to amend the Workmen's Compensation Regulation, No. XIV of 1928, held on Monday, 6th April 1936, commencing at 1 P.M., in the Second Member's Chamber.

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P r e s e n t:

1. The Second Member of Council (Chairman),
2. Mr. M.Venkatanaranappa (Secretary to Government, Development Department),
3. " H.D.Sinclair,
4. " S.Abdul Wajid,
5. " T.Ramachandra,
6. " M.Ramachandra Rao Sindia,
7. " K.T.Bhashyam Aiyangar,
8. Dr. S.Subba Rao,
9. Rajacharita Visarada Rao Sahib C.Hayavadana Rao,

The Secretary ~~(to the Committee B.A. and I.C.~~ (Mr.C.Subrahmanyaer) and Dr. Stokes (Chief Medical Officer, K.G.F.), were also present.

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At the outset, Mr.S.Abdul Wajid stated, with reference to the Chairman's enquiry towards the end of the previous meeting of the Select Committee, that ordinarily it would take about a month's time for the Labour Commissioner to settle claims for compensation.

(Verify) Dr.Stokes presented a statement showing the nature of claims pressed and amount of compensation paid by the Gold Mining Companies.

Mr.T.Ramachandra, who was not present at the first meeting, enquired whether it was not necessary to define 'casual labour' clearly and to decide whether casual labour, in order to be entitled to compensation, should have been ~~entitled~~ employed for an entire month or ~~employment~~ a labourer employed for shorter periods would also get compensation.

The Chairman replied that though the employment was for shorter than a month, compensation would be paid provided the person concerned was a workman.

The Secretary to the Committee ~~R.A. & L.C.,~~ said that 'monthly wage' had been interpreted by the courts and that employment need not necessarily be for an entire month. ~~At the same time he said after~~ In support of this view he read from a certain commentary on the Workmen's Compensation Law.

Mr.M.Venkatanaranappa observed that the extract read showed that if a man was employed by a particular employer once for a few days and again for a few days after some months, such labourer ~~would~~ could not ~~come under~~ be called a casual labourer ~~'s category~~.

Mr.M.Ramachandra Rao Sindia ~~enquired~~ enquired whether also it was proposed to apply this law to plantations/ The Chairman replied in the affirmative, but added that the chances of accidents ~~in~~ on plantations were very remote.and so the planters could have no ground for complaint.

Mr.T.Ramachandra however stated that the Whitley Commission had discussed this very question and recommended that it was not necessary to bring planters under the operation of this law. The Chairman replied that planters themselves had not objected to the proposed extension of the measure and that perhaps members of this Select Committee need not therefore press the question.

MR.H.D.Sinclair referred to the definition of 'workman' as proposed to be laid down and said that there was no labourer in Mysore whose wage went up to the neighbourhood of three hundred rupees, so that it would be meaningless to provide that imaginary maximum. The point was however not pressed.

The Committee then proceeded to consider the draft report prepared by the Secretary, ~~R.A. & L.C.~~ to the Committee.

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Re: Inclusion of the words "adopted son" as a dependant under Section 2 (d) (1).

Mr.K.T.Bhashyam Aiyangar proposed that for "adopted son", the words "minor son" or "minor legitimate son" be substituted. After some discussion for and against, it was agreed that the words "minor legitimate son or minor adopted son" be substituted.

Re: Provision ~~for recognising~~ for recognising a foster-son as a dependant.

The Chairman invited attention to the fact that the sense of the Committee on the previous occasion was against a provision of that kind.

Mr.K.T.Bhashyam Aiyangar said that the point had better be raised and answered, since ~~the~~ foster-sons were commonly met with among labourers and doubts would arise if the point was not specifically dealt with by the Select Committee.

It was finally agreed that the point be mentioned with the addition that the Committee was not in favour of a provision of the kind referred to.

Re: Adding to the list of occupational diseases.

The Chairman said that it was the employer who would have to prove that the ~~the~~ disease was not contracted in the course of work under ~~him~~ him. The labourer might have been working under two or more employers in the course of a given time and it would be difficult to ascertain where and when exactly the labourer contracted the disease. For this reason, he said, it was proposed to subject each labourer to a ~~monthly~~ periodical medical examination, especially with regard to silicosis or miners' phthisis. For the same reason, the Mining Boards had suggested that every labourer should be made to submit himself to medical examination at the time of entertainment in service, in addition to the monthly examinations. If these were not insisted upon, it would be difficult for anybody to ascertain where and when the disease was

contracted, and both the employer and the workman would be placed in an awkward or difficult position. At present there was no provision to meet all cases and so it was proposed to insert another provision as sub-section 2 (A), after sub-section 2 of section 3, as follows:-

"Notwithstanding anything contained in sub-section (1) a right to compensation in respect of any occupational disease specified in Schedule III shall be conditional on compliance with such requirements as may be prescribed in regard to submission to initial and periodical medical examination by a workman, furnishing of information by a workman with respect to his previous employment and autopsy on the body of a deceased workman."

This was meant only to enable Government to issue suitable rules in regard to diseases which might arise as a result of continuous employment.

DR.STOKES brought to notice that, a provision like this would compel Mining Companies to compensate a labourer for contracting silicosis, even though such labourer was able to earn a living subsequently; he pressed the view that compensation should be insisted upon only when the labourer was disabled to earn a living as a result of the disease which he contracted.

The Chairman said that the compensation payable would be only the difference between the two wages earned before and after the disease was contracted. In other words, liability would arise only in case of disablement -- either partial or total and to the extent of the disablement; in the absence of both, the question would not arise.

Mr.Bhashyam Aiyangar apprehended the possibility that an employer, in order to escape the liability to pay compensation, might go on discharging employees as and when traces of silicosis were noticed as a result of the periodical examination. He therefore proposed that provision should be made that in such cases, the employees should not be suddenly discharged

The Chairman replied that the possibility existed, no doubt, but that if employers were dominated by the one desire of avoiding payment of compensation they might as well think of sending out labourers once in six months as a matter of course. But that would be hardly likely.

Mr.M.Venkatanaranappa said that even then, the provision would be very hard on employers. A labourer might contract the disease and yet be fit for some other work. Silicosis, he said, would prove dangerous and develop into tuberculosis only if the labourer continued to work in the same atmosphere even after contracting it.

The Chairman said that what was proposed to be done was merely to take power to make ~~certain~~ rules for the regulation of compensation cases.

Mr.T.Ramachandra asked whether it would not be desirable to include in the Schedule, dyeing, work in lead foundry, work in match factory, etc., in connection with dangerous occupations.

The Chairman replied that Government might extend application of the law according to the needs of the situation at any given time.

Dr.S.Subba Rao stated that 99 per cent of the employees would not undergo medical examination.

The Chairman said that right to compensation would arise only if the labourer proved that a disease was contracted in the course of employment under a particular employer, and that in order to be able to prove such a case, it would be in the interest of the labourer himself to undergo the periodical examination.

Mr.K.T.Bhashyam Aiyangar enquired what the effect would be if the provision was not made at all.

The Secretary, ~~R.A. & L.C.~~ to the Committee, replied that labourers would not submit themselves to examination and

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the employers' liability would be increased because they would be unable to prove that the disease was contracted elsewhere.

Dr.Stokes enquired whether compensation for partial disablement would not necessitate payment of compensation for diseases subsequently developing or for death.

The Chairman replied that compensation once ~~accepted~~ paid would set all claims at rest. Subsequent

Dr.Stokes enquired whether this would be the case even if silicosis was traced or developed subsequently. The Chairman said that there would be nothing like a second claim.

Mr.K.T.Bhashyam Aiyangar thought that it was the labourer's own responsibility to prove that he contracted silicosis in the course of work/under a particular employer and so there was no necessity to insist upon medical examination. The labourer would undergo it in his own interest.

Mr.H.D.Sinclair proposed that the Mines might insist on a medical examination of their own before a labourer was entertained. But Dr.Stokes said that labourers would not agree to undergo medical examination unless it was made incumbent on them to do so.

Mr.Bhashyam Aiyangar then agreed that the provision might remain and be worked for some time, and that its effect might be watched for some time.

Dr.S.Subba Rao observed that without medical examination, the entire provision about occupational diseases would have to be dropped.

Mr.Hayavadana Rao enquired what would be the interval between every two successive examinations. The Chairman said that Government would decide that question. Mr.Hayavadana Rao thought that such a discretion would be too wide. The Chairman said that Government would exercise the discretion in such a way as not cause any undue hardship to anybody.

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The provision was thereupon agreed to, with a slight modification as follows:-

> "Notwithstanding anything contained in sub-section (1) a right to compensation in respect of any occupational disease specified in Schedule III shall be conditional on compliance with such requirements as may be prescribed in regard to medical examination and autopsy on the body of ~~a~~ diseased workman."

Re: reduction of the waiting period.

Mr.T.Ramachandra enquired whether compensation would be given from the date of injury if after the period of waiting it was found that the labourer would take more time for getting over.

Mr.M.Venkatanaranappa said that this was being done actually, though the law was rigorous.

The Chairman pointed out that there was nothing to prevent payment of compensation, in such cases, for more than 7 days.

Re: (Clause 5) Basis of calculation of monthly ~~wage~~ wage.

Mr.K.T.Bhashyam Aiyangar suggested the addition of an explanatory provision at the beginning of Clause 5 to the effect that "In this Regulation, monthly wages mean wages by whatever period paid and shall be calculated as follows".

The Committee discussed a similar suggestion which had been made by the Labour Commissioner for India in this connection. The suggestion was accepted.

Re: (Clause 6) Amount of advance that might be given by an employer to a dependant on account of compensation.

Mr.Hayavadana Rao suggested the limit to be fixed at either Rs. ~~6~~ 50 or a month's salary whichever was higher.

Mr.Bhashyam Aiyangar said that an employer was now free to give an advance up to Rs.100 and that that would be indeed too much.

Mr.S.Abdul Wajid thought it would be much better to leave the amount to be decided by the employer himself, more especially as the entire claim for compensation was going to be settled within about a month.

~~The suggestion was agreed to.~~ It was however agreed that Rs.50 be the maximum amount of advance payable.

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Re: Clause 22 (Schedule II (1).)

Mr.M.Venkatanaranappa invited attention to a suggestion from the Labour Commissioner for India to the effect that the words "or electrically" b inserted after the word "mechanically".

The Secretary, ~~R.A. & L.C.,~~ to the Committee observed that ultimately the propulsion would be mechanical whether it was electrically connected or not, so that it would be unnecessary to insert the addition suggested. The Committee accepted this view.

At this stage, the Committee rose for lunch (3-35 P.M.) and reassembled at 3-35 P.M.

Mr.T.Ramachandra suggested, with reference to the same provision, the words "clerical capacity" being clearly defined, so as to mean that bus conductors, who would issue tickets, keep an account thereof, and in that sense do some clerical work, would not be denied the benefit of compensation accruing to all workmen. This was the object, he stated, with which Mr.Joshi had ~~asked~~ proposed in the Legislative Assembly that the words "otherwise than in a clerical capacity" be omitted from this provision.

Mr.M.Venkatanaranappa ~~replied~~ remarked/that the suggestion was not accepted by the Assembly.

The Chairman replied that the provision was sufficiently clear as it was.

Mr.Ramachandra then suggested that the exception might be made clear so as to be applicable only to persons employed exclusively on clerical work.

Mr.Hayavadana Rao observed that it would help nobody and that there was no doubt attaching to the provision, even as it stood, since a bus conductor was never understood to be doing clerical work. On the other hand, he said, a bus conductor was anything but a clerk.

In the light of the above discussions, Mr. Ramachandra did not press his suggestion.

It was then noted that there was a slight mistake in item (1) as printed, and that it should be as follows:-

> "(i) employed, otherwise than in a clerical capacity or on a railway, in connection with the operation or maintenance of mechanically propelled vehicles used for the carriage of persons for hire or for industrial or commercial purposes or".

Re: suggestions by the Labour Commissioner for India.

The other suggestions made by the Labour Commissioner for India, ~~for~~ in connection with amendments to the Regulation, were read, discussed, but not accepted as the particular points to which those suggestions related ~~xxxxxxxxxxxxxx~~ did not, in the opinion of the Committee, come within the purview of the Committee.

General.

Mr.T.Ramachandra enquired whether it was not necessary to provide for compensation from owners of motor cars whose drivers give ~~xxxxxx~~ rise to accidents resulting in death. Dr.S.Subba Rao did not think it would be fair to make owners of cars liable for the sins of the drivers, but he would have no objection if the liability was made reciprocal. The Secretary, ~~R.A. & I.C.,~~ to the Committee stated that the owner ~~would~~ was even at present ~~be~~ responsible for third party risks/and that therefore the provisions were wide enough. The Chairman said that this was the reason why ~~the~~ no specific provision was made again.

With regard to Schedule IV relating to amounts of compensation payable, Mr.Ramachandra Rao Sindia was of the opinion that it was too high compared with the standard of living and earning capacity of persons in Mysore. He was accordingly in favour of ~~accepting~~ prescribing lower amounts. Mr.T.Ramachandra ~~Rao~~ said that the proposed rates were in force elsewhere and that employers in an Indian State must not be placed in a more advantageous position than employers in British India. Mr.S.Abdul Wajid remarked that people in Mysore were poorer than those in British India, so that it was not very necessary that the rates in force in British India should be followed in Mysore. Mr.Hayavadana Rao shared this opinion. The Chairman observed that if the rates were reduced, there would be little need for a Bill of the kind under discussion. Anyhow, the Committee had come to know the two views on the question and he took it that this was the only object of the members who had advanced those views. The question was thereupon not pressed.

ith regard to item (iv) of Schedule II, Mr. T.Ramachandra enquired whether it was necessary to say "manufacture or handling" and whether it would not be sufficient to say "handling". Mr.M.Venkatanaranappa said that it was necessary to refer to both manufacture and ~~or~~ handling.

Mr.Ramachandra then suggested the desirability of imposing some restrictions as regards the number of men that might be employed on the manufacture or handling of explosives in any one factory or place. The Secretary, ~~R.A. & I.C.,~~ to the Committee replied that that would usually come up for consideration at the time of grant of licences. Mr.Hayavadana Rao, however,

Mr Ramachandra then suggested that even if less than ten persons were employed in a factory, compensation should be made payable

was not for the imposition of any fresh restrictions. After all, he said, even manufacturers of explosives should first be allowed to live before they were asked to pay compensation in cases of accident. No legislation should have the effect of killing a trade to which it applied.

Mr.M.Venkatanaranappa said that he understood Mr.Ramachandra to think that explosives were a luxury and so the manufacturers must be made to pay compensation. Mr.Hayavadana Rao replied that most of these manufacturers were living a hand-to-mouth existence, that there were many difficulties with regard to that trade, and that it would therefore be very unfair to make the rules more stringent. He thought that the rules as they were were all right. Agreeing in this view, Mr S.Abdul Wajid said that explosives manufactuers were practically starving and were unable to pay compensation even if called upon to do so. The Chairman accepted this view. Mr.Ramachandra did not press the point.

Mr.Ramachandra then suggested, with reference to item (xi) of the Schedule, the addition of the words 'or handling' before "natural petroleum or natural gas". His reason was that "winning" would apply to cases of tapping only, while "handling" would be common to all big shops. Mr.Hayavadana Rao was not in favour of the suggestion and he thought that it could not have been the object of the legislation that the provision should apply to all those cases. Dr.S.Subba Rao said that there was no necessity for the clause at all, in Mysore. The question was however not pressed.

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All the points connected with the Bill having been discussed, the Committee dispersed at 4-10 P.M., it being understood that the Secretary to the Committee would circulate the report for the signature of members.

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Appendix F G—1]

4 copies

SUBJECT.....

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Section

File No.

Serial No.

P.O

No. P 6848-S.S/Sue 4 sheets.

*Diary No. of letter replied to*.....

To

1) S. Abdul Wajid Esq. B.

2) H. D. Sinclair Esq V.I

3) M. Venkatanarayana Esq B.A

4) Sastravadyapranina Dr. S. Subba Rao B.A., M.B.E.M L.R.C.P

5) K. T. Bhashyam Aiyangar Esq B.A.,B.L.

6) Rajacharitra Chiravada Rao Sahib Kavi Hayavadana Rao Esq B.A.,

7) M. Ramachandra Rao Sundari Esq

8) S. Ramachandra Esq Inamdar I.C.S

General and Revenue Secretariat

( )

*the* 193

Date of issue 16.4.36.

Signed by Mr. C.S.I.

List of enclosures.....

Copied by .....

Examined by.....

Dear Sir,

I am directed to forward herewith the draft of the report of the Select Committee

(15)

Respectfully to the Governor

the Board to amend the

Workmen's Compensation

Regs. and to request

that it may kindly

be returned ~~early~~ before the 24th inst

with your approval

Yours truly,

Secy to the Commission

SG

Appendix F G—1]

156

SUBJECT.....

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Section

File No.

Serial No.

D-O.

No. P 7224.

*Diary No. of letter replied to*.....

To

X 1) M. Venkatasubbaramayya Esq B.A

2) K. T. Achariyar Esq Dewan Bahadur

General and Revenue Secretariat

( )

*the* *193* .

Dear Sir,

Date of issue 29.4.36.

I am directed to invite reference to my D.O. No. P 6846 S.S. dt. 16-4-36 forwarding the draft Report of the Select Committee on the Bill to amend the Workmen's Compensation Act and to request you to kindly

Signed by Mr. C.S.I.

List of enclosures.....

Copied by .....

Examined by.....

WD 03601—GPB—30,000—23-9-35

I return on Wednesday 18th May. It will be assumed that you approve of it in the absence of any instruction to the Contrary

~~If you do not take it that you have approved of the Report~~

Yours truly,

CL.

ECy

16 L 39 P 235

"LAKE VIEW", MYSORE ROAD,

BANGALORE CITY, Dated 17-4- 1936.

No. 3259
Enc. select committee report.

Post

20 APR. 1936

*From*

RAJACHARITAVISARADA RAO SAHIB
C. HAYAVADANA RAO, ESQ., B.A., B.L., F.M.U.,
*Secretary, The Bangalore Printing & Publishing Co., Ltd.*

*To*

The Secretary to the Committee,
&
General/Revenue Secretariat,
Bangalore.

SIR,

With reference to your D.O. No. P. 3848-95 dated 15/16th April 1936. I have the honour to return herewith the draft of the report of the Select Committee on the Bill to amend the Workmen's Compensation Regulation XIV of 1928, duly signed.

I have the honour to be,
Sir,
Your most obedient Servant,

C. Hayavadana Rao

Member, M-L.C.

Tel.: "INDUSCOM"

6665 P 33
162

DEPARTMENT OF INDUSTRIES AND COMMERCE.

*Director.*

**OFFICE OF THE DIRECTOR,**

*Bangalore, dated the* 20th April 36 *193*

D.O. No. F. Mis/35.36

Dear Sir,

With reference to your D. O. letter No. P. 6848-55 dated the 15/16th April 1936, I am returning herewith the draft report of the Select Committee duly approved by me.

Yours sincerely,

C. Subrahmanya Iyer, Esq., B.A., B.L.,
Secretary to the Select Committee
for Amending the Workmen's Compensation Regn.,
Old Public Offices, Bangalore.

Approved and returned with compliments
M Ramachandra Reddi
23.4.26
163

REPORT OF THE SELECT COMMITTEE ON THE BILL TO AMEND THE WORKMEN'S COMPENSATION REGULATION, XIV of 1923.

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We, the undersigned members of the Select Committee to which the Bill to amend the Workmen's Compensation Regulation XIV of 1923 was referred, have considered the Bill and have now the honour to submit this our report together with a copy of the Bill as amended by us.

2. Clause 2.- It is considered that an adopted son should be included as a dependant -- under Section 2 (a) (1). The words "a minor adopted son" may be inserted after the words "a minor legitimate son" in sub clause (a) (1) of clause 2.

One of the members suggested that foster son should be included as a dependent. But the general opinion of the committee was -- against this.

Section 3, subsection 2 of the Regulation.

It is proposed by the Bill to add to Schedule III and thus increase the list of occupational diseases. The effect is to make Section 3 (2) applicable to these diseases. The contracting of such disease by any workman will be deemed to be an injury by accident liable to be compensated and unless the

the employer proves the contrary, the accident would be deemed to have arisen out of and in the course of the particular employment. Since the burden of proving the negative lies on the person whose the workman has been last employed and the nature of the duties is such that it can be contracted only by gradual process, it is necessary to prescribe certain rules and conditions to ensure that the claim for compensation is limited to cases in which the liability of the employer can be reasonably ~~incurred~~. For this purpose it may be necessary to institute a system of medical examinations so that there may be recorded evidence as to when a workman was contracted an occupational disease. Further where there is a doubt as to whether death is ~~attributable~~ or mainly to an occupational disease contracted in the course of employment, it may be necessary to subject the body of a deceased workman to autopsy to ascertain the cause of death. Consequently, it is proposed to add a sub-section saving the right to compensation in respect of an occupational disease conditional on compliance by the workmen or their dependants, as the case may be, with such requirements as may be prescribed in regard to medical examination, autopsy, etc., In order to give effect to this, the following may be added as sub-clause

word "fifty" may be substituted in place of the words "one hundred" in the proviso to subsection 1 of Section 5 as proposed in sub clause (a) of clause 6 of the Bill.

1. Clause 22.- Schedule VI (1).-

(i) There is a slight mistake in item (i) of Schedule as printed, and it should be as follows:-

"(i) employed, otherwise than in a clerical capacity or on a railway, in connection with the operation or maintenance of mechanically propelled vehicles used for the carriage of persons for hire or for industrial or commercial purposes, or"

(ii) In item ", the words "and in subsection (1) of Section 12)" may be added after the word and figure "Section 3", as this appears to be an inadvertent omission.

'iii) In item "I", substitute the word "driver" for the word "driver:

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4

6674 P 635 —
166

GENERAL & REVENUE SECRETARIAT,

D.O.No. P/6848-55 Dated, Bangalore, the 15th April 1936.
Sue 4 Sects. 16

Dear Sir,

I am desired to forward herewith the draft of the report of the Select Committee appointed to consider the Bill to amend the Workmen's Compensation Regulation and to request that it may kindly be returned before the 24th instant with your approval.

Yours sincerely,

Secretary to the Committee.

To

Venkatanaranappa, Esq., B.A.,
Secretary to Government, Levelopment Department.

K.M.R.10.
64

# MYSORE MEDICAL DEPARTMENT

167

SASTRAVAIDYA PRAVINA
S. SUBBA RAO, ESQ.,
B.A., M.B.C.M., M.R.C.S. (ENG.),
L.R.C.P., D.P.H.

*Telephone* :—N

OFFICE OF THE SENIOR SURGEON IN MYSORE,

*Bangalore, dated*.....25-4-.....19

D. O. No. Z.C.360

Enc. /.

DEAR Sir,

I am in receipt of your letter No. P. 6848-55 dat the 16th April 1936 forwarding the draft of the report o the Select Committee appointed to consider the Bill to am the Workmen's compensation Regulations.

I am returning herewith the draft of the report duly approved.

Yours sincerely,

S. Subbarao

Secretary to the Committee

[illegible] Bill, [illegible] Ordinance No. [illegible] of 1925.

---

[illegible] the undersigned members of the [illegible] to whom the Bill to amend the Workmen's Compensation Ordinance No. IV of 1921 was referred, have considered the Bill and have now the honour to submit this our report together with a copy of the Bill as amended by us.

2. Clause 2.- We considered that an adopted son should be included as a dependant -- under section 3 (c) (1). The words 'a minor adopted son' may be inserted after the words 'a minor legitimate son' in sub clause (a) (i) of clause 2.

Some of the members suggested that foster son should be included as a dependent. But the general opinion of the committee was --- against this.

3. Section 3, subsection 2 of the Ordinance.

It is proposed by the Bill to add to Schedul III the thur increase the list of occupational diseases. The effect is to make section 3 (2) applicable to these diseases. [illegible] of these diseases by any workman shall be deemed to be an injury by accident liable to be compensated and unless the

the employer proves the contrary, the accident shall be deemed to have arisen out of and in the course of the particular employment. Since the burden of proving the negative lies on the person under whom the workman has been last employed and the nature of the disease is such that it can be contracted only by gradual process, it is necessary to prescribe certain rules and conditions to ensure that the claim for compensation is limited to cases in which the liability of the employer can be reasonably ~~traced~~ inferred. For this purpose it may be necessary to institute a system of medical examinations so that there may be recorded evidence as to when a workman has contracted an occupational disease. Further where there is a doubt as to whether death is due wholly or mainly to an occupational disease contracted in the course of employment, it may be necessary to subject the body of a deceased workman to autopsy to ascertain the cause of death. Consequently, it is proposed to add a subsection again, the right to compensation in respect of an occupational disease conditional on compliance by the workmen or their dependants, as the case may be, with such requirements as may be prescribed in regard to medical examination, autopsy, etc., In order to give effect to this, the following may be added as sub-clause

...ause (a) of clause 3 of the Bill, sub-...ion (2) in the Bill being renumbered as sub-...ause (1), be-

...(a) after subsection 2 there shall be inserted the following ...subsection (2A) :-

"(2A) Notwithstanding anything contained in ...subsection (1), a right to compensation in respect of any occupational disease specified in ...Schedule III shall be conditional on compliance with such requirements as may be prescribed in regard to medical examination of workmen and ...making on the basis of accepted ...ssment.",

4. Clause ...- (1) The Committee of Selection are of opinion that the following may be substituted for sub-clause (i) of clause 5 :-

"for the words 'for the purposes of Section ... the monthly wages of a workman', the words 'for the purposes of this section, monthly wages mean the wages of a workman, by whatever period paid, and' should be substituted".

(2) It is to be noted that only the proviso to section 5 is deleted, while the explanation ...

...

... Clause 6.- The Committee are of opinion that the ... decision that may be given by an employee ... on account of compensation as provided in the proviso to subsection 1 of Section 3 ... exceed Rs.5/-. Consequently, the

word 'fifty' may be substituted in place of the words 'one hundred' in the proviso to subsection 1 of section 3 as proposed in sub clause (a) of clause 5 of the Bill.

4. Clause 22.- Amend it by (1).-

(i) There is a slight mistake in item (i) of it as printed, and it should be as follows:-

"(i) employed, otherwise than in a clerical capacity, on a railway, in connection with the operation or maintenance of mechanically propelled vehicles used for the carriage of persons for hire or for industrial or commercial purposes, or"

(ii) In item (), the words "and in subsection (1) of section 12)" may be added after the word "section 3", as this appears to be an inadvertent omission.

(iii) In item (), substitute the word "carvel" for the word "driver".

I approve the above Report

D. Ramachandra MLC

17.4.36

Report of the Select Committee on the Bill to amend the Workmen's Compensation Regulation, XIV of 1928.

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We, the undersigned Members of the Select Committee to which the Bill to amend the Workmen's Compensation Regulation XIV of 1928 was referred, have considered the Bill and have now the honour to submit this our Report together with a copy of the Bill as amended by us.

2. Clause 2.-We consider that an adopted son should be included as a dependant under Section 2 (d) (1). The words "a minor adopted son" may be inserted after the words "a minor legitimate son" in sub clause (a) (i) of clause 2.

One of the members suggested that foster son should be included as a dependant. But the general opinion of the committee was against this.

3. Section 3, subsection 2 of the Regulation.

It is proposed by the Bill to add to Schedule III and thus increase the list of occupational diseases. The effect is to make Section 3(2) applicable to these diseases. The contracting of such disease by any workman will be deemed to be an injury by accident liable to be compensated and unless the employer proves the contrary, the accident shall

be

be deemed to have arisen out of and in the course of the particular employment.

Since the burden of proving the negative lies on the ~~employer~~ and the nature of the disease is such that it ~~is~~ can be contracted by gradual process, it is necessary to prescribe certain rules and conditions ~~for~~ to ensure that the claim ~~of~~ for compensation ~~in this matter~~ ~~as safeguards.~~ ~~It has been therefore considered necessary to prescribe such things as initial~~ medical examinations ~~of the workman when he~~ enters the appointment ~~and periodical medical examinations~~ so that there may be recorded evidence as to when a workman contracts ~~the particular~~ an occupational disease. Further, where ~~there is no such medical proof of~~ a ~~workman having contracted~~ an occupational disease in the course of employment, it may be necessary to subject the body of a deceased workman to autopsy to ascertain ~~if the death was due to any particular~~ the occupational ~~disease~~ death. Consequently, - it is proposed to add a subsection making the right to compensation in respect of an occupational disease conditional on compliance by the workman or their dependants with such requirements as may be prescribed in regard to medical examination autopsy, etc. To give effect to this, the following may be added as ~~subsection~~ subclause (c) in clause 3 ~~2(1)~~ of the Bill, subclause (c) in the Bill being renumbered as subclause (d):-

(C) , after subsection 2 ~~of Section 3.~~ add the following as subsection (2A) —

'Notwithstanding anything contained in subsection (1), a right to ~~xxx~~ compensation in respect of any occupational disease specified in Schedule III shall be conditional on compliance with such requirements as may be prescribed in regard to medical examination of workmen and autopsy on the body of ~~a~~ deceased workmen.' "

4. Clause 5.-(1) For purposes of clarity, we are of opinion that the following may be substituted for sub clause (i) of Clause 5:-

"for the words 'For the purposes of Section 4, the monthly wages of a workman', the words "In this Regulation, monthly wages mean the wages of a workman, 'by whatever period paid, and' shall be substituted."

(2) It is to be noted that only the proviso to Section 5 is deleted, while the explanation remains.

5. Clause 6.-We are of opinion that the amount of advance that may be given by an employer to a dependant on account of compensation as provided in the proviso to subsection 1 of Section 8 should not exceed Rs.50/-. Consequently, the word "fifty" may be substituted in place of

the

the words "one hundred" in the proviso to subsection 1 of Section 8 as proposed in sub clause (a) of Clause 6 of the Bill.

7. Clause 22.- Schedule II (1).-

(i) There is a slight mistake in item (i) of Schedule as printed, and it should be as follows:

> "(i) employed, otherwise than in a clerical capacity or on a railway, in connection with the operation or maintenance of mechanically propelled - vehicles used for the carriage of - persons for hire or for industrial or commercial purposes, or".

(ii) In item X, the words "and in subsection (1) of Section 129" may be added after the word and figure "Section 3", as this appears to be an inadvertant omission.

(iii) In item XIX, substitute the word "driver" for the word "driver".

**********

8/4/36

## NOTIFICATION.

*No. 3642—L. C., dated Bangalore, the 8th May 1936.*

Under Standing Order No. 49 of the Standing Orders for the conduct of business of the Mysore Legislative Council, the following Report of the Select Committee on the Bill to amend the Workmen's Compensation Regulation No. XIV of 1928, is published for general information.

By Order,

C. SUBRAHMANYA AIYAR,
*Secretary,*
*Mysore Legislative Council.*

## REPORT OF THE SELECT COMMITTEE ON THE BILL TO AMEND THE WORKMEN'S COMPENSATION REGULATION, XIV OF 1928.

We, the undersigned Members of the Select Committee to which the Bill to amend the Workmen's Compensation Regulation, XIV of 1928 was referred, have considered the Bill and have now the honour to submit this our Report together with a copy of the Bill as amended by us.

2. *Clause 2.*—We consider that an adopted son should be included as a dependant under Section 2 (*d*) (1). The words " a minor adopted son " may be inserted after the words " a minor legitimate son " in sub-clause (*a*) (i) of clause 2.

One of the members suggested that foster son should be included as a dependant. But the general opinion of the Committee was against this.

3. *Section 3, sub-section 2 of the Regulation.*—It is proposed by the Bill to add to Schedule III and thus increase the list of occupational diseases. The effect is to

make Section 3 (2) applicable to these diseases. The contracting of such disease by any workman will be deemed to be an injury by accident liable to be compensated and unless the employer proves the contrary, the accident shall be deemed to have arisen out of and in the course of the particular employment. Since the burden of proving the negative lies on the person under whom the workman has been last employed and the nature of the disease is such that it can be contracted only by gradual process, it is necessary to prescribe certain rules and conditions to ensure that the claim for compensation is limited to cases in which the liability of the employer can be reasonably inferred. For this purpose it may be necessary to institute a system of medical examinations so that there may be recorded evidence as to when a workman has contracted an occupational disease. Further where there is a doubt as to whether death is due solely or mainly to an occupational disease contracted in the course of employment, it may be necessary to subject the body of a deceased workman to autopsy to ascertain the cause of death. Consequently, it is proposed to add a sub-section making the right to compensation in respect of an occupational disease conditional on compliance, by the workman or their dependants, as the case may be, with such requirements as may be prescribed in regard to medical examination, autopsy, etc. In order to give effect to this, the following may be added as sub-clause (*c*) in clause 3 of the Bill, sub-clause (*c*) in the Bill being re-numbered as sub-clause (*d*) :—

(*c*) after sub-section 2 add the following as sub-section (2A) :—

" Notwithstanding anything contained in sub-section (1), a right to compensation in respect of any occupational disease specified in Schedule III shall be conditional on compliance with such requirements as may be prescribed in regard to medical examination of workmen and autopsy on the body of deceased workmen."

4. Clause 5.—(1) For purposes of clarity, we are of opinion that the following may be substituted for sub-clause (i) of clause 5 :—

" for the words 'For the purposes of Section 4, the monthly wages of a workman', the words 'In this Regulation, monthly wages mean the wages of a workman, by whatever period paid, and ' shall be substituted."

(2) It is to be noted that only the proviso to Section 5 is deleted, while the explanation remains.

5. *Clause* 6.—We are of opinion that the amount of advance that may be given by an employer to a dependant on account of compensation as provided in the proviso to sub-section 1 of section 8 should not exceed Rs. 50. Consequently, the word "fifty" may be substituted in place of the words "one hundred" in the proviso to sub-section 1 of Section 8 as proposed in sub-clause (a) of clause 6 of the Bill.

7. *Clause* 22.—Schedule II (1).—

(i) There is a slight mistake in item (i) of Schedule as printed, and it should be as follows :—

"(i) employed, otherwise than in a clerical capacity or on a railway, in connection with the operation or maintenance of mechanically propelled vehicles used for the carriage of persons for hire or for industrial or commercial purposes; or"

(ii) in item X, the words "and in sub-section (1) of section 129" may be added after the word and figure "section 3", as this appears to be an inadvertant omission.

(iii) In item XIX, substitute the word "diver" for the word "driver."

d.) N. MADHAVA RAU (Chairman).
„ S. ABDUL WAJID.
„ H. D. SINCLAIR.
„ M. VENKATANARANAPPA.
„ S. SUBBA RAO.
„ C. HAYAVADANA RAO.
„ M. RAMACHANDRA RAO SINDIA
„ T. RAMACHANDRA.

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*N. B.*—Mr. K. T. Bhashyam Iyengar has not communicated his approval.

BILL AS AMENDED BY THE SELECT COMMITTEE.

[ADDITIONS ARE INDICATED IN ITALICS AND OMISSIONS ARE ENCLOSED IN SQUARE BRACKETS.]

# BILL TO AMEND THE WORKMEN'S COMPENSATION REGULATION, No. XIV OF 1928.

WHEREAS it is expedient to amend the Workmen's Compensation Regulation, No. XIV of 1928; It is hereby enacted as follows:—

1. This Regulation shall be called the Workmen's Compensation (Amendment) Regulation, 193

2. In section 2 of the Workmen's Compensation Regulation, 1928 (hereinafter referred to as the said Regulation),—

(*a*) in sub-section (1):—

(i) the following shall be substituted for the existing clause (*d*):—

(*d*) "dependent" means any of the following relatives of a deceased workman, namely—

(i) a wife, a minor legitimate son, *a minor adopted son* and unmarried legitimate daughter, or a widowed mother; and

(ii) if wholly or in part dependant on the earnings of the workman at the time of his death, a husband, a parent other than a widowed mother, a minor illegitimate son, an unmarried illegitimate daughter, a daughter legitimate or illegitimate if married and a minor or if widowed, a minor brother, an unmarried or widowed sister, a widowed daughter-in-law, a minor child of a deceased son, or, where no parent of the workman is alive, a paternal grandparent.

(ii) in sub-clause (ii) of clause (*l*) the words "either by way of manual labour or" shall be omitted.

(*b*) for sub-section (3), the following shall be substituted:—

'The Government, after giving, by notification in the Official Gazette, not less than three months' notice of its intention so to do, may, by a like notification, add to Schedule II any class of persons employed in any occupation which it is satisfied is a hazardous occupation, and the provisions of this Regulation shall thereupon apply to such classes of persons:

Provided that in making such additions the Government may direct that the provisions of this Regulation shall apply to such classes of persons in respect of specified injuries only."

3. In section 3 of the said Regulation,—

(*a*) in sub-section (1):—

(i) in proviso (*a*) for the word 'ten' the word 'seven' shall be substituted;

(ii) in proviso (*b*) for the words "injury to a workman resulting from" the words "injury, not resulting in death, caused by" shall be substituted; and

(iii) the word 'or' of proviso (*b*) at the end of sub-clause (iii) and the whole of proviso (*c*) shall be omitted;

(*b*) in sub-section (2) for the words "hides or skins" the following shall be substituted, namely:—"or animal carcasses or parts of such carcasses, or in the loading, unloading or transport of any merchandise, or in any work in connection with animals infected with anthrax;" and

"(*c*) *after sub-section 2 add the following as sub-section (2A):—*

"*Notwithstanding anything contained in subsection (1), a right to compensation in respect of any occupational disease specified in Schedule III shall be conditional on compliance with such requirements as may be prescribed in regard to medical examination of workmen and autopsy on the body of deceased workmen.*"

[(*c*)] (*d*) in sub-section (4) the words "solely and" shall be omitted.

4. In sub-section (1) of section 4 of the said Regulation,—

(*a*) for clause (i) under A, the following shall be substituted:—

"(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—the amount shown against such limits in the second column thereof, and";

(*b*) for clauses (i) and (ii) under B, the following shall be substituted:—

"(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of

Schedule IV—the amount shown against such limits in the third column thereof, and

(ii) in the case of a minor—twelve rupees;"

(*c*) (i) in D, for the words "ten days" the words "seven days" shall be substituted; and

(ii) for clauses (i) and (ii) and the proviso under D, the following shall be substituted:—

"(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—of the sum shown against such limits in the fourth column thereof, and

(ii) in the case of a minor—of one-half of his monthly wages, subject to a maximum of thirty rupees:

Provided that (*a*) there shall be deducted from any lumpsum or half-monthly payments to which the workman is entitled, the amount of any payment or allowance which the workman has received from the employer by way of compensation during the period of disablement prior to the receipt of such lumpsum or the first half-monthly payment, as the case may be; and

(*b*) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the workman before the accident exceeds half the amount of such wages which he is earning after the accident."

5. In section 5 of the said Regulation,—

(i) [for the word and figure "Section 4" the words "this Regulation" shall be substituted;]

"*for the words 'For the purpose of section 4, the monthly wages of a workman', the words "In this Regulation, monthly wages mean the wages of a workman, by whatever period paid, and' shall be substituted.*"

(ii) after clause (*a*) the following clause shall be inserted, *viz.*,—

"(*b*) where the whole of the continuous period of service immediately preceding the accident during which the workman was in the service of the employer who is liable to pay the compensation was less than one month, the monthly wages of the workman shall be deemed to be the average monthly amount which, during the twelve months immediately preceding the accident, was being earned by a workman employed on the same work by the

same employer, or, if there was no workman so employed, by a workman employed on similar work in the same locality;"

(iii) clause (*b*) shall be re-lettered as clause (*c*), and

(iv) the proviso shall be omitted.

6. In section 8 of the said Regulation:—

(*a*) for sub-sections (1) to (3), the following sub-sections shall be substituted, namely:—

"(1) No payment of compensation in respect of a workman whose injury has resulted in death, and no payment of a lumpsum as compensation to a woman or a person under a legal disability, shall be made otherwise than by deposit with the Commissioner, and no such payment made directly by an employer shall be deemed to be a payment of compensation:

Provided that, in the case of a deceased workman, an employer may make to any dependant advances on account of compensation not exceeding an aggregate of [one hundred] *fifty* rupees, and so much of such aggregate as does not exceed the compensation payable to that dependant shall be deducted by the Commissioner from such compensation and repaid to the employer.

(2) Any other sum amounting to not less than ten rupees which is payable as compensation may be deposited with the Commissioner on behalf of the person entitled thereto.

(3) The receipt of the Commissioner shall be a sufficient discharge in respect of any compensation deposited with him;" and

(*b*) in sub-section (4) (i) after the words "under sub-section (1)" the words "as compensation in respect of a deceased workman" shall be inserted,

(ii) the words "shall deduct" shall be substituted for the words "may deduct," and

(iii) the word "twenty-five" shall be substituted for the word "fifty;"

(*c*) for sub-section (5), the following sub-sections shall be substituted, namely:—

"(5) Compensation deposited in respect of a deceased workman shall, subject to any deduction made under sub-section (4), be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the

discretion of the Commissioner, be allotted to any one dependant.

(6) Where any compensation deposited with the Commissioner is payable to any person, the Commissioner shall, if the person to whom the compensation is payable is not a woman or a person under a legal disability, and may, in other cases, pay the money to the person entitled thereto.

(7) Where any lumpsum deposited with the Commissioner is payable to a woman or a person under legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of the woman, or of such person during his disability, in such manner as the Commissioner may direct; and where a half-monthly payment is payable to any person under a legal disability, the Commissioner may, of his own motion or on an application made to him in this behalf, order that the payment be made during the disability to any dependant of the workman or to any other person whom the Commissioner thinks best fitted to provide for the welfare of the workman;" and

(*d*) sub-section (6) shall be re-numbered as sub-section (8); and

(*e*) after that sub-section the following sub-section shall be added, namely:—

) Where the Commissioner varies any order under sub-section (8) by reason of the fact that payment of compensation to any person has been obtained by fraud, impersonation or other improper means, any amount so paid to or on behalf of such person may be recovered in the manner hereinafter provided in section 30."

7. In section 10 of the said Regulation;—

(*a*) in sub-section (1), after the first proviso the following further proviso shall be inserted, namely:—

"Provided further that the want of or any defect or irregularity in a notice shall not be a bar to the maintenance of proceedings—

(*a*) if the claim is made in respect of the death of a workman resulting from an accident which occurred on the premises of the employer, or at any place where the workman at the time of the accident was working under the control of the employer or of any person employed by him, and the workman died on such premises or at such place, or on any premises belonging to the employer, or

died without having left the vicinity of the premises or place where the accident occurred, or

(*b*) if the employer had knowledge of the accident from any other source at or about the time when it occurred;" and

(*b*) for sub-section (3) the following sub-sections shall be substituted, namely:—

"(3) The Government may require that any prescribed class of employers shall maintain at their premises at which workmen are employed a notice-book, in the prescribed form, which shall be readily accessible at all reasonable times to any injured workman employed on the premises and to any person acting *bona fide* on his behalf.

(4) A notice under this section may be served by delivering it at, or sending it by registered post addressed to, the residence or any office or place of business of the person on whom it is to be served, or, where a notice-book is maintained, by entry in the notice-book."

8. After section 10 of the said Regulation the following sections shall be inserted, namely:—

Power to require from employers statements regarding fatal accidents. 8 of 15 of 33.

"10A. (1) Where a Commissioner receives information from any source that a workman has died as a result of an accident arising out of and in the course of his employment, he may send by registered post a notice to the workman's employer requiring him to submit, within thirty days of the service of the notice, a statement, in the prescribed form, giving the circumstances attending the death of the workman, and indicating whether, in the opinion of the employer, he is or is not liable to deposit compensation on account of the death.

(2) If the employer is of opinion that he is liable to deposit compensation, he shall make the deposit within thirty days of the service of the notice.

(3) If the employer is of opinion that he is not liable to deposit compensation, he shall in his statement indicate the grounds on which he disclaims liability.

(4) Where the employer has so disclaimed liability, the Commissioner, after such inquiry as he may think fit, may inform any of the dependants of the deceased workman that it is open to the dependants to prefer a claim for compensation, and may give them such other further information as he may think fit.

Reports of fatal accidents.

10B. (1) Where, by any law for the time being in force, notice is required to be given to any authority, by or on behalf of an employer, of any accident occurring on his premises which results in death, the person required to give the notice shall, within seven days of the death, send a report to the Commissioner giving the circumstances attending the death:

Provided that where the Government has so prescribed the person required to give the notice may, instead of sending such report to the Commissioner send it to the authority to whom he is required to give the notice.

(2) The Government may, by notification in the Official Gazette, extend the provisions of sub-section (1) to any class of premises other than those coming within the scope of that sub-section, and may, by such notification, specify the persons who shall send the report to the Commissioner."

9. In sub-section (2) of section 12 of the said Regulation after the words "the contractor" the following words shall be inserted:—

"or any other person from whom the workman could have recovered compensation and where a contractor who is himself a principal is liable to pay compensation or to indemnify a principal under this section he shall be entitled to be indemnified by any person standing to him in the relation of a contractor from whom the workman could have recovered compensation."

10. In Chapter II and after section 17 of the said Regulation, the following section shall be inserted, namely:—

Penalties

"17A. (1) Whoever—

(*a*) fails to maintain a notice-book which he is required to maintain under sub-section (3) of section 10 or

(*b*) fails to send to the Commissioner a statement which he is required to send under sub-section (1) of section 10A, or

(*c*) fails to send a report which he is required to make under section 10B, or

(*d*) fails to make a return which he is required to make under section 15, shall be punishable with fine which may extend to one hundred rupees.

(2) No prosecution under this section shall be instituted except by or with the previous sanction of a Commissioner, and no Court shall take cognizance of any offence under this section, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed."

11. In sub-section (1) of section 18 of the said Regulation, for the words 'the Commissioner' the words 'a Commissioner' shall be substituted.

12. In section 19 of the said Regulation,—

(*a*) after sub-section (1) the following sub-section shall be inserted, namely :—

"(2) Where more than one Commissioner has been appointed for any local area, the Government may, by general or special order, regulate the distribution of business between them;" and

(*b*) sub-sections (2) and (3) shall be re-numbered as sub-sections (3) and (4).

13. In section 20 of the said Regulation,—

(*a*) in sub-section (1), for the words "the Commissioner" the words "a Commissioner" shall be substituted; and

(*b*) after sub-section (4) the following sub-section shall be added, namely :—

"(5) The Government may transfer any matter from any Commissioner appointed by it to any other Commissioner appointed by it."

14. In section 21 of the said Regulation,—

(*a*) in sub-section (1) after the word "Commissioner" a comma and the words "other than an application by a dependant or dependants for compensation," shall be inserted; and

(*b*) in sub-section (2),

(i) for the words "Where any such question has arisen, the application," the words "An application to a Commissioner" shall be substituted, and

(ii) for clause (*d*) the following shall be substituted, namely :—

"except in the case of an application by dependants for compensation a concise statement of the matters on which agreement has and of those on which agreement has not been come to."

15. After section 21 of the said Regulation the following sections shall be inserted, namely :—

Power of Commissioner to require further deposit in cases of fatal accidents.

"21A. Where any sum has been deposited by an employer as compensation payable in respect of a workman whose injury has resulted in death, and in the opinion of the Commissioner such sum is insufficient, the Commissioner may, by notice in writing stating his reasons, call upon the employer to show cause why he should not make a further deposit within such time as may be stated in the notice.

(2) If the employer fails to show cause to the satisfaction of the Commissioner, the Commissioner may make an award determining the total amount payable, and requiring the employer to deposit the deficiency."

16. In section 22 after the word "objects" the following words shall be added, namely :—

"and the Commissioner shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXXV of the Code of Criminal Procedure 1904."

17. In sub-section (1) of section 27 of the said Regulation,—

(*a*) for the words "to a person under a legal disability or to a dependant" the words "to a woman or a person under a legal disability" shall be substituted;

(*b*) clause (*b*) of the proviso shall be omitted;

(*c*) in clause (*d*) of the proviso,

(i) for the words "to a person under any legal disability or to any dependant," the words "to a woman or a person under a legal disability" shall be substituted, and

(ii) for the words "or may make such order" the words "and may make such order" shall be substituted.

18. To sub-section (1) of section 29 of the said Regulation, after the existing provisos the following further proviso shall be added, namely :—

"Provided further that no appeal by an employer under clause (*a*) shall lie unless the memorandum of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against."

19. After section 29 of the said Regulation, the following section shall be inserted, namely :—

"29A. Where an employer makes an appeal under clause (*a*) of sub-section (1) of section 29, the Commissioner may, and if so directed by the High Court shall, pending the decision of the appeal, withhold payment of any sum in deposit with him." Withholding of certain payments pending decision of appeal.

20. In sub-section (2) of section 31 of the said Regulation, after clause (*k*) the following clauses shall be inserted, namely :—

"(*l*) for prescribing the classes of employers who shall maintain notice books under sub-section (3) of section 10 and the form of such notice books;

(*m*) for prescribing the form of statement to be submitted by employers under section 10A;

(*n*) for prescribing the cases in which the report referred to in section 10B may be sent to an authority other than the Commissioner, and

(*o*) generally for carrying on all or any of the purposes of this Regulation."

21. After section 32 of the said Regulation the following section shall be inserted, namely :—

"32A. The Government may by notification in the Official Gazette make rules for the transfer to any part of British India or other States in India of money paid to a Commissioner under this Regulation for the benefit of any person residing or about to reside in such part and for the receipt and administration in Mysore of any money awarded under the law relating to workmen's compensation in any such part and applicable for the benefit of any person residing or about to reside in Mysore."

22. For Schedule II of the said Regulation, the following shall be substituted :—

## SCHEDULE II.

The following persons are workmen within the meaning of section 2 (I) (1) and subject to the provisions of that section, that is to say, any person who is—

(i) employed, otherwise than in a clerical capacity or on a railway, in connection with the operation or maintenance of mechanically propelled vehicles used for the carriage of passengers for hire or for industrial or commercial purposes; or ;

(ii) employed within the meaning of clause (2) of section 2 of the Mysore Factories Regulation, 1914, in any place which is a factory within the meaning of sub-clause (*a*) of clause (3) of that section ; or

iii) employed for the purpose of making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale any article or part of an article in any premises wherein or within the precincts whereof on any one day of the preceding twelve months, fifty or more persons have been so employed; or

(iv) employed in the manufacture or handling of explosives in any premises wherein, or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been so employed ; or

(v) employed in any mine which is subject to the operation of the Mysore Mines Regulation, 1906 ;

*Explanation.*—A person is said to be " employed " in a mine who works under appointment by or with the knowledge of the manager, whether for wages or not, in any mining operation, or in cleaning, or oiling any part of any machinery used in or about the mine, or in any other kind of work whatsoever incidental to, or connected with, mining operations.

*Or*

(vi) employed in the construction, repair or demolition of—

(*a*) any building which is designed to be or is or has been more than one storey in height above the ground or twenty feet or more from the ground level to the apex of the roof ; or

(*b*) any dam or embankment which is twenty feet or more in height from its lowest to its highest point ; or

(*c*) any road, bridge, or tunnel ; or

(vii) employed in setting up, repairing, ma
or taking down any telephone line or post or any overhead electric line or cable or post or standard for the same ; or

(viii) employed, otherwise than in a clerical capacity, in the construction, working, repair or demolition of any aerial ropeway, canal, pipe-line, or sewer ; or

(ix) employed in the service of any fire brigade ; or

(x) employed upon a railway as defined in clause (4) of section 3, *and in sub-section (1) of Section 129* of the Mysore Railways Regulation, 1894, either directly

or through a sub-contractor, by a person fulfilling a contract with the railway administration; or

(xi) employed, otherwise than in a clerical capacity, in connection with operations for winning natural petroleum or natural gas; or

(xii) employed in any occupation involving blasting operations; or

(xiii) employed in the making of any excavation in which on any one day of the preceding twelve months more than fifty persons have been employed or explosives have been used, or whose depth from its highest to its lowest point exceeds twenty feet; or

(xiv) employed in the operation of any ferry boat capable of carrying more than ten persons; or

(xv) employed, otherwise than in a clerical capacity, on any estate which is maintained for the purpose of growing coffee, rubber or tea, and on which on any one day in the preceding twelve months twenty-five or more persons have been so employed; or

(xvi) employed, otherwise than in a clerical capacity, in the generating, transforming or supplying of electrical energy or in the generating or supplying of gas; or

(xvii) employed in producing cinematograph pictures intended for public exhibition or in exhibiting such pictures; or

(xviii) employed in the training, keeping or working of elephants or wild animals; or

(xix) employed as a [driver] *diver*.

*Explanation.*—In this Schedule 'the preceding twelve months' relates in any particular case to the twelve months ending with the day on which the accident in such case occurred.

23. In Schedule III to the said Regulation after the entry relating to phosphorus poisoning, the following entries shall be added, namely :—

| | |
|---|---|
| Mercury poisoning or its sequelæ. | Any process involving the use of mercury or its preparations or compounds. |
| Poisoning by benzene and its homologues, or the sequelæ of such poisoning. | Handling benzene or any of its homologues and any process in the manufacture or involving the use of benzene or any of its homologues. |
| Chrome ulceration or its sequelæ. | Any process involving the use of chromic acid or bichromate of ammonium, potassium or sodium, or their preparations. |

| | |
|---|---|
| Compressed air illness or its sequelæ. | Any process carried on in compressed air. |
| Miners' phthisis or silicosis, | Any occupation wherein the mineral dust i such as to cause silicosis. |
| Cyanide rash | The handling of cyanide or any work involv ing the use of cyanide |

24. For Schedule IV to the said Regulation, th following shall be substituted :—

## SCHEDULE IV.

*(See Section 4.)*

**Compensation Payable in certain Cases.**

| Monthly wages of the workman injured | | Amount of compensation for | | Half-monthly payment as compensatio for temporary disablement of adult |
|---|---|---|---|---|
| | | Death of adult | Permanent total disablement of adult | |
| More than | But not more than | | | |
| Rs. | s. | Rs. | Rs. | Rs. a. |
| 0 | 0 | 500 | 700 | Half his monthly wages |
| 10 | 15 | 550 | 770 | 5 0 |
| 15 | 18 | 600 | 840 | 6 0 |
| 18 | 21 | 630 | 882 | 7 0 |
| 21 | 24 | 720 | 1,008 | 8 0 |
| 24 | 27 | 810 | 1,134 | 8 8 |
| 27 | 30 | 900 | 1,260 | 9 0 |
| 30 | 35 | 1,050 | 1,470 | 9 8 |
| 35 | 40 | 1,200 | 1,680 | 10 0 |
| 40 | 45 | 1,350 | 1,890 | 11 4 |
| 45 | 50 | 1,500 | 2,100 | 12 8 |
| 50 | 60 | 1,800 | 2,520 | 15 0 |
| 60 | 70 | 2,100 | 2,940 | 17 8 |
| 70 | 80 | 2,400 | 3 360 | 20 0 |
| 80 | 100 | 3,000 | 4,200 | 25 0 |
| 00 | 200 | 3,500 | 4,900 | 30 0 |
| 00 | ... | 4,000 | 5,600 | 30 0 |

Printed by the Superintendent at the Government Press, Bangalore.

G. R. S. VI.—s-III/14]

**DRAFT.**

SUBJECT.....

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.....

**Section.** Legis.
**File No.** 7-36
**Serial No.** 1

*Diary No. of letter replied to*.....

*Proceedings of the Government of H. H. the Maharaja of Mysore.*

Order No. P 846

GENERAL AND REVENUE SECRETARIAT,

( )

, *the*.....*191*

Ordered that the accompanying Regulations to amend the workmen's compensation Regulation, 1928 which received the assent of His Highness the Maharaja, on the fourteenth day of July 1936, be published as Regulation No. III of 1936, in the *Mysore Gazette* for general information.

*Date of issue* 31.7.36

*Signed by* Mr. C.S.J.

May this be—

(i) Printed?

(ii) Treated as a standing order?

(iii) Published in the "Gazette" English part?

(iv) Translated?

(v) Placed at the disposal of the Press?

(vi) Published in the "Gazette" Kannada part?

for Secretary to Government.

To

The Compiler, *Mysore Gazette*, for publication in Part ~~I~~ IV of the Gazette, in English and Kannada and for supply of .....spare copies in English, and .....spare copies in Kannada as per standing order ~~to this office, and .....spare copies in English and .....spare copies in Kannada to the Curator, Government Central Book Depot, Bangalore.~~ Proofs should be sent to this office for approval before publication.

Copy to Translation Br

59

# REGULATION III OF 1936.

*(Received the assent of His Highness the Maharaja on the 14th day of July 1936.)*

**Regulation to amend the Workmen's Compensation Regulation, No. XIV of 1928.**

Price 0—1—3.

## NOTIFICATION.

*Order No. P. 846—Legis. 7-36-1, dated 31st July 1936.*

Ordered that the accompanying Regulation to amend the Workmen's Compensation Regulation, 1928, which received the assent of His Highness the Maharaja, on the fourteenth day of July 1936, be published as Regulation No. III of 1936, in the *Mysore Gazette*, for general information.

M. VENKATESA IYENGAR,
*Secretary to Government,*
*General Department.*

## REGULATION III OF 1936.

*(Received the assent of His Highness the Maharaja on the 14th day of July 1936.)*

**Regulation to amend the Workmen's Compensation Regulation, No. XIV of 1928.**

WHEREAS it is expedient to amend the Workmen's Compensation Regulation, No. XIV of 1928; It is hereby enacted as follows:—

1. This Regulation shall be called the Workmen's Compensation (Amendment) Regulation, 1936. Short title.

2. In section 2 of the Workmen's Compensation Regulation, 1928 (hereinafter referred to as the said Regulation),— Amendment of Section 2.

(*a*) in sub-section (1):—

(i) the following shall be substituted for the existing clause (*d*):—

"(*d*) "dependant" means any of the following relatives of a deceased workman, namely—

(i) a wife, a minor legitimate son, a minor adopted son and unmarried legitimate daughter, or a widowed mother; and

(ii) if wholly or in part dependent on the earnings of the workman at the time of his death, a husband, a parent other than a widowed mother, a minor illegitimate son, an unmarried illegitimate daughter, a daughter legitimate or illegitimate if married and a minor or if widowed, a minor brother, an unmarried or widowed sister, a widowed daughter-in-law, a minor child of a deceased son, or, where no parent of the workman is alive, a paternal grandparent,"

(ii) in sub-clause (ii) of clause (*l*) the words "either by way of manual labour or" shall be omitted.

(*b*) for sub-section (3), the following shall be substituted :—

"The Government, after giving, by notification in the Official Gazette, not less than three months' notice of its intention so to do, may, by a like notification, add to Schedule II any class of persons employed in any occupation which it is satisfied is a hazardous occupation, and the provisions of this Regulation shall thereupon apply to such classes of persons :

Provided that in making such additions the Government may direct that the provisions of this Regulation shall apply to such classes of persons in respect of specified injuries only."

Amendment of Section 3.

3. In section 3 of the said Regulation,—

(*a*) in sub-section (1) :—

(i) in proviso (*a*) for the word 'ten' the word seven' shall be substituted ;

(ii) in proviso (*b*) for the words "injury to a workman resulting from" the words "injury, not resulting in death, caused by" shall be substituted ; and

(iii) the word 'or' of proviso (*b*) at the end of sub-clause (iii) and the whole of proviso (*c*) shall be omitted ;

(*b*) in sub-section (2) for the words "hides or skins" the following shall be substituted, namely :—"or animal carcasses or parts of such carcasses, or in the loading, unloading or transport of any merchandise, or in any work in connection with animals infected with anthrax ;" and

(*c*) after sub-section 2 add the following as sub-section (2A) :—

"(2A) Notwithstanding anything contained in sub-section (1), a right to compensation in respect of any occupational disease specified in Schedule III shall be conditional on compliance with such requirements as may be prescribed in regard to medical examination of workmen and autopsy on the body of deceased workmen."

(*d*) in sub-section (4) the words "solely and" shall be omitted.

Amendment of Section 4.

4. In sub-section (1) of section 4 of the said Regulation,—

(*a*) for clause (i) under A, the following shall be substituted :—

"(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—the amount shown against such limits in the second column thereof, and";

(*b*) for clauses (i) and (ii) under B, the following shall be substituted :—

"(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—the amount shown against such limits in the third column thereof, and

(ii) in the case of a minor—twelve hundred rupees;"

(*c*) (i) in D, for the words "ten days" the words "seven days" shall be substituted; and

(ii) for clauses (i) and (ii) and the proviso under D, the following shall be substituted :—

"(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—of the sum shown against such limits in the fourth column thereof, and

(ii) in the case of a minor—of one-half of his monthly wages, subject to a maximum of thirty rupees:

Provided that (*a*) there shall be deducted from any lumpsum or half-monthly payments to which the workman is entitled, the amount of any payment or allowance which the workman has received from the employer by way of compensation during the period of disablement prior to the receipt of such lumpsum or the first half-monthly payment, as the case may be; and

(*b*) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the workman before the accident exceeds half the amount of such wages which he is earning after the accident."

Amendment of Section 5.

5. In section 5 of the said Regulation,—

"for the words 'For the purpose of section 4, the monthly wages of a workmen' the words "In this Regulation, monthly wages mean the wages of a workman, by whatever period paid, and' shall be substituted."

(ii) after clause (*a*) the following clause shall be inserted, *viz.*,—

"(*b*) where the whole of the continuous period of service immediately preceding the accident during which

the workman was in the service of the employer who is liable to pay the compensation was less than one month, the monthly wages of the workman shall be deemed to be the average monthly amount which, during the twelve months immediately preceding the accident, was being earned by a workman employed on the same work by the same employer, or, if there was no workman so employed, by a workman employed on similar work in the same locality;"

(iii) clause (*b*) shall be re-lettered as clause (*c*), and

(iv) the proviso shall be omitted.

Amendment of Section 8.

6. In section 8 of the said Regulation:

(*a*) for sub-sections (1) to (3), the following sub-sections shall be substituted, namely:-

"(1) No payment of compensation in respect of a workman whose injury has resulted in death, and no payment of a lumpsum as compensation to a woman or a person under a legal disability, shall be made otherwise than by deposit with the Commissioner, and no such payment made directly by an employer shall be deemed to be a payment of compensation:

Provided that, in the case of a deceased workman, an employer may make to any dependant advances on account of compensation not exceeding an aggregate of fifty rupees, and so much of such aggregate as does not exceed the compensation payable to that dependant shall be deducted by the Commissioner from such compensation and repaid to the employer.

(2) Any other sum amounting to not less than ten rupees which is payable as compensation may be deposited with the Commissioner on behalf of the person entitled thereto.

(3) The receipt of the Commissioner shall be a sufficient discharge in respect of any compensation deposited with him;" and

(*b*) in sub-section (4) (i) after the words "under sub-section (1)" the words "as compensation in respect of a deceased workman" shall be inserted,

(ii) the words "shall deduct" shall be substituted for the words "may deduct;" and

(iii) the word "twenty-five" shall be substituted for the word "fifty;"

(*c*) for sub-section (5), the following sub-sections shall be substituted namely:-

"(5) Compensation deposited in respect of a deceased workman shall, subject to any deduction made under sub-section (4), be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one dependant.

(6) Where any compensation deposited with the Commissioner is payable to any person, the Commissioner shall, if the person to whom the compensation is payable is not a woman or a person under a legal disability, and may, in other cases, pay the money to the person entitled thereto.

(7) Where any lumpsum deposited with the Commissioner is payable to a woman or a person under legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of the woman, or of such person during his disability, in such manner as the Commissioner may direct; and where a half-monthly payment is payable to any person under a legal disability, the Commissioner may, of his own motion or on an application made to him in this behalf, order that the payment be made during the disability to any dependant of the workman or to any other person whom the Commissioner thinks best fitted to provide for the welfare of the workman;" and

(*d*) sub-section (6) shall be re-numbered as sub-section (8); and

(*e*) after that sub-section the following sub-section shall be added, namely:—

"(9) Where the Commissioner varies any order under sub-section (8) by reason of the fact that payment of compensation to any person has been obtained by fraud, impersonation or other improper means, any amount so paid to or on behalf of such person may be recovered in the manner hereinafter provided in section 30."

Amendment of Section 10.

7. In section 10 of the said Regulation,—

(*a*) in sub-section (1), after the first proviso the following further proviso shall be inserted, namely:—

"Provided further that the want of or any defect or irregularity in a notice shall not be a bar to the maintenance of proceedings—

(*a*) if the claim is made in respect of the death of a workman resulting from an accident which occurred on

the premises of the employer, or at any place where the workman at the time of the accident was working under the control of the employer or of any person employed by him, and the workman died on such premises or at such place, or on any premises belonging to the employer, or died without having left the vicinity of the premises or place where the accident occurred, or

(*b*) if the employer had knowledge of the accident from any other source at or about the time when it occurred;" and

(*b*) for sub-section (3) the following sub-sections shall be substituted, namely:—

"(3) The Government may require that any prescribed class of employers shall maintain at their premises at which workmen are employed a notice-book, in the prescribed form, which shall be readily accessible at all reasonable times to any injured workman employed on the premises and to any person acting *bona fide* on his behalf.

(4) A notice under this section may be served by delivering it at, or sending it by registered post addressed to, the residence or any office or place of business of the person on whom it is to be served, or, where a notice-book is maintained, by entry in the notice-book."

Insertion of new Sections 10 A and 10 B.

8. After section 10 of the said Regulation, the following sections shall be inserted, namely:—

Power to require from employers statements regarding fatal accidents.

"10A. (1) Where a Commissioner receives information from any source that a workman has died as a result of an accident arising out of and in the course of his employment, he may send by registered post a notice to the workman's employer requiring him to submit, within thirty days of the service of the notice, a statement, in the prescribed form, giving the circumstances attending the death of the workman, and indicating whether, in the opinion of the employer, he is or is not liable to deposit compensation on account of the death.

(2) If the employer is of opinion that he is liable to deposit compensation, he shall make the deposit within thirty days of the service of the notice.

(3) If the employer is of opinion that he is not liable to deposit compensation, he shall in his statement indicate the grounds on which he disclaims liability.

(4) Where the employer has so disclaimed liability, the Commissioner, after such inquiry as he may think fit, may inform any of the dependants of the deceased

workman that it is open to the dependants to prefer a claim for compensation, and may give them such other further information as he may think fit.

Reports of fatal accidents.

10B. (1) Where, by any law for the time being in force, notice is required to be given to any authority, by or on behalf of an employer, of any accident occurring on his premises which results in death, the person required to give the notice shall, within seven days of the death, send a report to the Commissioner giving the circumstances attending the death:

Provided that where the Government has so prescribed, the person required to give the notice may instead of sending such report to the Commissioner send it to the authority to whom he is required to give the notice.

(2) The Government may, by notification in the Official Gazette, extend the provisions of sub-section (1) to any class of premises other than those coming within the scope of that sub-section, and may, by such notification, specify the persons who shall send the report to the Commissioner."

Amendment of Section 12.

9. In sub-section (2) of section 12 of the said Regulation after the words "the contractor" the following words shall be inserted:—

"or any other person from whom the workman could have recovered compensation and where a contractor who is himself a principal is liable to pay compensation or to indemnify a principal under this section he shall be entitled to be indemnified by any person standing to him in the relation of a contractor from whom the workman could have recovered compensation."

Insertion of new Section 17 A.

10. In Chapter II and after section 17 of the said Regulation, the following section shall be inserted, namely:—

"17A. (1) Whoever—

Penalties

(*a*) fails to maintain a notice-book which he is required to maintain under sub-section (3) of section 10, or

(*b*) fails to send to the Commissioner a statement which he is required to send under sub-section (1) of section 10A, or

(*c*) fails to send a report which he is required to make under section 10B, or

(*d*) fails to make a return which he is required to make under section 15, shall be punishable with fine which may extend to one hundred rupees.

(2) No prosecution under this section shall be instituted except by or with the previous sanction of a Commissioner, and no Court shall take cognizance of any offence under this section, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed."

Amendment of Section 18.

11. In sub-section (1) of section 18 of the said Regulation, for the words 'the Commissioner' the words 'a Commissioner' shall be substituted.

Amendment of Section 19.

12. In section 19 of the said Regulation,—

(*a*) after sub-section (1) the following sub-section shall be inserted, namely :—

"(2) Where more than one Commissioner has been appointed for any local area, the Government may, by general or special order, regulate the distribution of business between them ;" and

(*b*) sub-sections (2) and (3) shall be re-numbered as sub-sections (3) and (4).

Amendment of Section 20.

13. In section 20 of the said Regulation,—

(*a*) in sub-section (1), for the words "the Commissioner" the words "a Commissioner" shall be substituted ; and

(*b*) after sub-section (4) the following sub-section shall be added, namely :—

"(5) The Government may transfer any matter from any Commissioner appointed by it to any other Commissioner appointed by it."

Amendment of Section 21.

14. In section 21 of the said Regulation,—

(*a*) in sub-section (1) after the word "Commissioner" a comma and the words "other than an application by a dependant or dependants for compensation," shall be inserted ; and

(*b*) in sub-section (2),

(i) for the words "Where any such question has arisen, the application," the words "An application to a Commissioner" shall be substituted, and

(ii) for clause (*d*) the following shall be substituted, namely :—

"except in the case of an application by dependants for compensation a concise statement of the matters on which agreement has and of those on which agreement has not been come to."

15. After section 21 of the said Regulation, the following section shall be inserted, namely :— Insertion of new Section 21 A.

" 21A. " (1) Where any sum has been deposited by an employer as compensation payable in respect of a workman whose injury has resulted in death, and in the opinion of the Commissioner such sum is insufficient, the Commissioner may, by notice in writing stating his reasons, call upon the employer to show cause why he should not make a further deposit within such time as may be stated in the notice. Power of Commissioner to require further deposit in cases of fatal accidents.

(2) If the employer fails to show cause to the satisfaction of the Commissioner, the Commissioner may make an award determining the total amount payable, and requiring the employer to deposit the deficiency."

16. In section 22 after the word " objects " the following words shall be added, namely :— Amendment of Section 22.

" and the Commissioner shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXXV of the Code of Criminal Procedure, 1904."

17. In sub-section (1) of section 27 of the said Regulation,— Amendment of Section 27.

(*a*) for the words " to a person under a legal disability or to a dependant " the words " to a woman or a person under a legal disability " shall be substituted ;

(*b*) clause (*b*) of the proviso shall be omitted ;

(*c*) in clause (*d*) of the proviso,

(i) for the words " to a person under any legal disability or to any dependant," the words " to a woman or a person under a legal disability " shall be substituted, and

(ii) for the words " or may make such order " the words " and may make such order " shall be substituted.

18. To sub-section (1) of section 29 of the said Regulation, after the existing provisos the following further proviso shall be added, namely :— Amendment of Section 29.

" Provided further that no appeal by an employer under clause (*a*) shall lie unless the memorandum of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against."

Insertion of new Section 29 A.

19. After section 29 of the said Regulation, the following section shall be inserted, namely :—

Withholding of certain payments pending decision of appeal.

"29A. Where an employer makes an appeal under clause (*a*) of sub-section (1) of section 29, the Commissioner may, and if so directed by the High Court shall, pending the decision of the appeal, withhold payment of any sum in deposit with him."

Amendment of Section 31.

20. In sub-section (2) of section 31 of the said Regulation, after clause (*k*) the following clauses shall be inserted, namely :—

"(*l*) for prescribing the classes of employers who shall maintain notice books under sub-section (3) of section 10 and the form of such notice books;

(*m*) for prescribing the form of statement to be submitted by employers under section 10A ;

(*n*) for prescribing the cases in which the report referred to in section 10B may be sent to an authority other than the Commissioner, and

(*o*) generally for carrying on all or any of the purposes of this Regulation."

Insertion of new Section 32 A.

21. After section 32 of the said Regulation, the following section shall be inserted, namely :—

"32A. The Government may by notification in the Official Gazette make rules for the transfer to any part of British India or other States in India of money paid to a Commissioner under this Regulation for the benefit of any person residing or about to reside in such part and for the receipt and administration in Mysore of any money awarded under the law relating to workmen's compensation in any such part and applicable for the benefit of any person residing or about to reside in Mysore."

Substitution of a new Schedule II for existing Schedule.

22. For Schedule II of the said Regulation, the following shall be substituted :—

## SCHEDULE II.

The following persons are workmen within the meaning of section 2 (1) (i) and subject to the provisions of that section, that is to say, any person who is—

(i) employed, otherwise than in a clerical capacity or on a railway, in connection with the operation or maintenance of mechanically propelled vehicles used for the carriage of passengers for hire or for industrial or commercial purposes ; or ,

(ii) employed within the meaning of clause (2) of section 2 of the Mysore Factories Regulation, 1914, in any place which is a factory within the meaning of sub-clause (*a*) of clause (3) of that section; or

(iii) employed for the purpose of making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale any article or part of an article in any premises wherein or within the precincts whereof on any one day of the preceding twelve months, fifty or more persons have been so employed; or

(iv) employed in the manufacture or handling of explosives in any premises wherein, or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been so employed; or

(v) employed in any mine which is subject to the operation of the Mysore Mines Regulation, 1906;

*Explanation.*—A person is said to be "employed" in a mine who works under appointment by or with the knowledge of the manager, whether for wages or not, in any mining operation, or in cleaning, or oiling any part of any machinery used in or about the mine, or in any other kind of work whatsoever incidental to, or connected with, mining operations.

*Or*

(vi) employed in the construction, repair or demolition of—

(*a*) any building which is designed to be or is or has been more than one storey in height above the ground or twenty feet or more from the ground level to the apex of the roof; or

(*b*) any dam or embankment which is twenty feet or more in height from its lowest to its highest point; or

(*c*) any road, bridge, or tunnel; or

(vii) employed in setting up, repairing, maintaining, or taking down any telephone line or post or any overhead electric line or cable or post or standard for the same; or

(viii) employed, otherwise than in a clerical capacity, in the construction, working, repair or demolition of any aerial ropeway, canal, pipe-line, or sewer; or

(ix) employed in the service of any fire brigade; or

(x) employed upon a railway as defined in clause (4) of section 3, and in sub-section (1) of Section 129 of the Mysore Railways Regulation, 1894, either directly

or through a sub-contractor, by a person fulfilling a contract with the railway administration ; or

(xi) employed, otherwise than in a clerical capacity, in connection with operations for winning natural petroleum or natural gas ; or

(xii) employed in any occupation involving blasting operations ; or

(xiii) employed in the making of any excavation in which on any one day of the preceding twelve months more than fifty persons have been employed or explosives have been used, or whose depth from its highest to its lowest point exceeds twenty feet ; or

(xiv) employed in the operation of any ferry boat capable of carrying more than ten persons ; or

(xv) employed, otherwise than in a clerical capacity, on any estate which is maintained for the purpose of growing coffee, rubber or tea, and on which on any one day in the preceding twelve months twenty-five or more persons have been so employed; or

(xvi) employed, otherwise than in a clerical capacity, in the generating, transforming or supplying of electrical energy or in the generating or supplying of gas ; or

(xvii) employed in producing cinematograph pictures intended for public exhibition or in exhibiting such pictures ; or

(xviii) employed in the training, keeping or working of elephants or wild animals ; or

(xix) employed as a diver.

*Explanation.*—In this Schedule 'the preceding twelve months' relates in any particular case to the twelve months ending with the day on which the accident in such case occurred. "

Amendment of Schedule III.

23. In Schedule III to the said Regulation after the entry relating to phosphorus poisoning, the following entries shall be added, namely :—

| | |
|---|---|
| " Mercury poisoning or its sequelæ. | Any process involving the use of mercury or its preparations or compounds. |
| Poisoning by benzene and its homologues, or the sequelæ of such poisoning. | Handling benzene or any of its homologues and any process in the manufacture or involving the use of benzene or any of its homologues. |
| Chrome ulceration or its sequelæ. | Any process involving the use of chromic acid or bichromate of ammonium, potassium or sodium, or their preparations. |

| | |
|---|---|
| Compressed air illness or its sequelæ. | Any process carried on in compressed air. |
| Miners' phthisis or silicosis, | Any occupation wherein the mineral dust is such as to cause silicosis. |
| Cyanide rash ... | The handling of cyanide or any work involving the use of cyanide. " |

Substitution of new Schedule for existing Schedule IV.

24. For Schedule IV to the said Regulation, the following shall be substituted :—

" SCHEDULE IV.

*(See Section 4.)*

**Compensation Payable in certain Cases.**

| Monthly wages of the workman injured | | Amount of compensation for | | Half-monthly payment as compensation for temporary disablement of adult |
|---|---|---|---|---|
| | | Death of adult | Permanent total disablement of adult | |
| More than | But not more than | | | |
| Rs. | Rs. | Rs. | Rs. | Rs. a. |
| 0 | 10 | 500 | 700 | Half his monthly wages |
| 10 | 15 | 550 | 770 | 5 0 |
| 15 | 18 | 600 | 840 | 6 0 |
| 18 | 21 | 630 | 882 | 7 0 |
| 21 | 24 | 720 | 1,008 | 8 0 |
| 24 | 27 | 810 | 1,134 | 8 8 |
| 27 | 30 | 900 | 1,260 | 9 0 |
| 30 | 35 | 1,050 | 1,470 | 9 8 |
| 35 | 40 | 1,200 | 1,680 | 10 0 |
| 40 | 45 | 1,350 | 1,890 | 11 4 |
| 4 | 50 | 1,500 | 2,100 | 12 8 |
| 5 | 60 | 1,800 | 2,520 | 15 0 |
| 6 | 70 | 2,100 | 2,940 | 17 8 |
| 7 | 80 | 2,400 | 3,360 | 20 0 |
| 8 | 100 | 3,000 | 4,200 | 25 0 |
| 10 | 200 | 3,500 | 4,900 | 30 0 |
| 20 | ... | 4,000 | 5,600 | 30 0 |

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